CITY COUNCIL AGENDA
NORMAN UTILITIES AUTHORITY AGENDA
NORMAN MUNICIPAL AUTHORITY AGENDA
NORMAN TAX INCREMENT FINANCE AUTHORITY AGENDA

Municipal Building Council Chambers
201 West Gray

December 22, 2009
6:30 p.m.

1. Roll Call

2. Pledge of Allegiance

3. ITEM: CONSENT DOCKET

INFORMATION: This item is placed on the agenda so that the City Council, by unanimous consent, can designate those routine agenda items that they wish to be approved or acknowledged by one motion. If any item proposed does not meet with approval of all Councilmembers, that item will be heard in regular order. Staff recommends that Item 4 through Item 20 be placed on the consent docket.

ACTION NEEDED: 1. Motion to place Item ____ through Item ____ on the Consent Docket by unanimous vote.

ACTION TAKEN: _____

ACTION NEEDED: 2. Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, motion to approve or acknowledge all items on the Consent Docket subject to any conditions included in the individual action needed by item.

ACTION TAKEN: _____

4. ITEM: APPROVAL OF THE MINUTES AS FOLLOWS:

CITY COUNCIL FINANCE COMMITTEE MINUTES OF NOVEMBER 18, 2009
CITY COUNCIL STUDY SESSION MINUTES OF DECEMBER 1, 2009
CITY COUNCIL SPECIAL SESSION MINUTES OF DECEMBER 8, 2009
CITY COUNCIL MINUTES OF DECEMBER 8, 2009
NORMAN UTILITIES AUTHORITY MINUTES OF DECEMBER 8, 2009
NORMAN MUNICIPAL AUTHORITY MINUTES OF DECEMBER 8, 2009
NORMAN TAX INCREMENT FINANCE AUTHORITY MINUTES OF DECEMBER 8, 2009

ACTION NEEDED: Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, motion to approve the minutes; and, if approved, direct the filing thereof.

ACTION TAKEN: _____

5. ITEM: SUBMISSION OF THE FINANCE DIRECTOR'S INVESTMENT REPORT AS OF NOVEMBER 30, 2009.

INFORMATION: The above-described item appears on City Council's agenda in order that acknowledgment of the receipt of the report may be noted in the minutes as a matter of permanent record. A copy of the report is included in the Agenda Book.

ACTION NEEDED: Motion to acknowledge receipt of the report and direct the filing thereof.

ACTION TAKEN: _____

6. ITEM: SUBMISSION OF THE MONTHLY DEPARTMENTAL REPORTS FOR THE MONTH OF NOVEMBER, 2009.

INFORMATION: The above-described item appears on City Council's agenda in order that acknowledgment of the receipt of the reports may be noted in the minutes as a matter of permanent record. Copies of the reports are included in the Agenda Packet Copies of the reports are included in the Agenda Packet or transmitted electronically.

ACTION NEEDED: Motion to acknowledge receipt of the reports and direct the filing thereof.

ACTION TAKEN: _____

7. ITEM: SUBMISSION OF REPORTS ENTITLED "COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED JUNE 30, 2009," AS PREPARED BY THE FIRM OF COLE AND REED, P.C., FOR THE CITY OF NORMAN, OKLAHOMA, NORMAN UTILITIES AUTHORITY, NORMAN MUNICIPAL AUTHORITY, AND NORMAN TAX INCREMENT FINANCE AUTHORITY.

INFORMATION: The above-described item appears on City Council's agenda in order that acknowledgment of receipt of the reports may be noted in the minutes as a matter of permanent record. A copy of an advisory memorandum is included in the Agenda Book and the report is included in the Agenda packet.

ACTION NEEDED: Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, motion to acknowledge receipt of the reports and direct the filing thereof.

ACTION TAKEN: _____

8. ITEM: CONSIDERATION OF BID NO. 0910-34; CONTRACT NO. K-0910-103 WITH DIVERSIFIED CONSTRUCTION OF OKLAHOMA, INC., IN THE AMOUNT OF $2,064,000; PERFORMANCE BOND NO. B-0910-32; STATUTORY BOND NO. B-0910-33; MAINTENANCE BOND NO. MB-0910-27; AND RESOLUTION NO. R-0910-80 FOR THE FIRE STATION NO. EIGHT CONSTRUCTION PROJECT LOCATED ON 36TH AVENUE N.W., ONE-FOURTH MILE NORTH OF TECUMSEH ROAD AND BUDGET APPROPRIATION.

INFORMATION: Staff has examined the bids, contract, and bonds and found them to be in order and proper as to form. Staff recommends acceptance of the bids; the subsequent awarding of the bid as indicated below; approval of the contract and bonds; and adoption of the project agent resolution. Copies of an advisory memorandum; bid tabulation; location map; conceptual drawing; contract with Diversified Construction of Oklahoma, Inc., in the amount of $2,064,000; the performance, statutory, and maintenance bonds; Resolution No. R-0910-80; and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Motion to accept or reject all bids meeting specifications; and, if accepted, award the bid in the amount of $2,064,000 to Diversified Construction of Oklahoma, Inc., as the lowest and best bidder meeting specifications; approve Contract No. K-0910-103 and the performance, statutory, and maintenance bonds; direct the filing of the bonds; authorize execution of the contract; adopt Resolution No R-0910-80; and appropriate $341,626 from Public Safety Sale Tax Fund (010-0000-313.10-09) and $17,981 from Public Safety Use Tax Fund (010-0000-313.10-10) to Project No. FT0002, Fire Station #8 West Side, Construction (050-9377-419.61-01).

ACTION TAKEN: _____

9. ITEM: CONSIDERATION OF BID NO. 0910-35 AND APPROVAL OF THE FOLLOWING CONTRACTS FOR DISASTER DEBRIS CLEARANCE AND REMOVAL SERVICES:

CONTRACT NO. K-0910-123: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND T.F.R. ENTERPRISES, INC.

CONTRACT NO. K-0910-124: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND JIMMY CROWDER EXCAVATING AND LAND CLEARING, INC., D/B/A CROWDER DISASTER RECOVERY.

CONTRACT NO. K-0910-125: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND DRC EMERGENCY SERVICES, L.L.C.

INFORMATION: Staff has examined the bids and contracts and found them to be in order and proper as to form. Staff recommends acceptance of the bids, the subsequent awarding of the bids as indicated, and approval of the contracts. Copies of an advisory memorandum; bid tabulation; and contracts are included in the Agenda Book.

ACTION NEEDED 1. Motion to accept or reject all bids meeting specifications; and, if accepted, award the bid to T.F.R. Enterprises, Inc., Jimmy Crowder Excavating and Land Clearing, Inc., d/b/a Crowder Disaster Recovery, and DRC Emergency Services, L.L.C., as the lowest and best bidders meeting specifications.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to approve or reject Contract No. K-0910-123 with T.F.R. Enterprises, Inc.; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 3. Motion to approve or reject Contract No. K-0910-124 with Jimmy Crowder Excavating and Land Clearing, Inc., d/b/a Crowder Disaster Recovery; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 4. Motion to approve or reject Contract No. K-0910-125 with DRC Emergency Services, L.L.C.; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

10. ITEM: LIMITED LICENSE NO. 0910-6: LIMITED LICENSE TO PLACE FOUR (4) GROUND BANNERS WITHIN THE PUBLIC RIGHTS-OF-WAY PURSUANT TO A REQUEST FROM THE FIREHOUSE ART CENTER FOR THE CHOCOLATE FESTIVAL.

INFORMATION: City Council, in its meeting of August 8, 1995, adopted Ordinance No. O-9596-6 providing a limited license for placement of festival and public event banners which would be granted by the City Council. The Firehouse Art Center has requested placement of four (4) ground banners at various locations in the City of Norman for a thirty-one day (31) day period. In accordance therewith, the above-described item is submitted for City Council's consideration. Copies of an advisory memorandum, application, and limited license are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject Limited License No. 0910-6 to place four (4) ground banners within the public rights-of-way pursuant to a request from the Firehouse Art Center for the Chocolate Festival; and, if approved, authorize the issuance thereof.

ACTION TAKEN: _____

11. ITEM: CONSIDERATION OF TEMPORARY CONSENT TO ENCROACHMENT NO. 0910-4 FOR LOT 1, BLOCK 1, FOWLER ADDITION. (950 INTERSTATE DRIVE NORTH)

INFORMATION: Staff has considered the request and temporary encroachment delineated in the above-described consent and recommends Temporary Consent to Encroachment No. 0910-4 be approved. Copies of an advisory memorandum; Temporary Consent to Encroachment; letter of request; location maps; Staff memoranda; and supplemental material are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject Temporary Consent to Encroachment No. 0910-4; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

12. ITEM: AMENDMENT NO. SIX TO CONTRACT NO. K-0304-65: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND SORCE, INC., IN AN AMOUNT NOT-TO-EXCEED $60,000 FOR THE WASTEWATER SLUDGE REDUCTION PROJECT AND EXTENDING THE CONTRACT TO DECEMBER 23, 2010.

INFORMATION: The Norman Utilities Authority, in its meeting of October 14, 2003, approved Contract No. K-0304-65 with Sorce, Inc., in an amount not-to-exceed $60,000 for the Wastewater Sludge Reduction Project to introduce a microbial solution into excess sludge stored in storm holding ponds at the Wastewater Treatment Plant. The initial contract was successful in reducing the volume of stored sludge prior to land application. Amendment No. One approved December 28, 2004, extended the contract to December 23, 2005. Amendment No. Two approved December 13, 2005, extended the contract to December 23, 2006. Amendment No. Three approved December 12, 2006, extended the contract to December 23, 2007. Amendment No. Four was approved October 9, 2007, increasing the contract amount by $75,000, extended the contract to December 23, 2008, and allowed for treatment of the south holding pond for a three-month period. Amendment No. Five approved December 9, 2008, in an amount not-to-exceed $60,000 allowed continuation of the introduction of a microbial solution into excess sludge stored in the northwest and northeast storm water holding ponds for a cost of $30,000 for the first six months and $5,000 per month on a month-to-month basis thereafter not-to-exceed a twelve (12) month period. Amendment No. Six has the same terms and extends the contract until December 23, 2010. The amendment has been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the amendment. Copies of an advisory memorandum, amendment, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to approve or reject Amendment No. Six to Contract No. K-0304-65 with Sorce, Inc., in an amount not-to-exceed $60,000 and extending the contract to December 23, 2010; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

13. ITEM: AMENDMENT NO. ONE TO CONTRACT NO. K-0506-82: A SUPPLEMENTAL AGREEMENT TO A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION (ODOT) FOR FEDERAL-AID PROJECT NO. TCSP-0H68(007) DC, STATE JOB NO. 22670(04) OUTLINING THE RESPONSIBILITIES OF ODOT AND THE CITY OF NORMAN FOR THE ROBINSON STREET GRADE SEPARATION PROJECT.

INFORMATION: City Council, in its meeting of October 25, 2009, approved Contract No. K-0506-82 with ODOT for the Robinson Street Grade Separation Project. Amendment No. One prepared by ODOT addresses the responsibilities of the City and ODOT. The above-described amendment has been examined by the Assistant City Attorney and found to be in order and proper as to form. The construction project is funded 80% by federal funding and requires 20% local funds. The engineer's estimate for the project is $17,359,147 with ODOT's share being $14,019,544 and the City's share being $3,339,603. Staff recommends approval of the contract and adoption of the resolution. Copies of an advisory memorandum, location map, amendment, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject Amendment No. One to Contract No. K-0506-82 with the Oklahoma Department of Transportation; and, if approved, authorize the execution thereof and direct payment in the amount of $3,339,603 to ODOT for the City's 20% share.

ACTION TAKEN: _____

14. ITEM: CONSIDERATION OF THE FOLLOWING CONTRACTS:

CONTRACT NO. K-0910-105: A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND COX TMI WIRELESS, L.L.C., FOR THE LEASE OF A CELL TOWER SITE FOR PLACEMENT OF EQUIPMENT ON THE BROOKHAVEN WATER TOWER LOCATED AT 4151 WEST ROBINSON STREET FOR A FIVE-YEAR PERIOD.

CONTRACT NO. K-0910-106: A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND COX TMI WIRELESS, L.L.C., FOR THE LEASE OF A CELL TOWER SITE FOR PLACEMENT OF EQUIPMENT ON THE CASCADE WATER TOWER LOCATED AT 3199 36TH AVENUE N.W.

INFORMATION: Cox TMI Wireless, L.L.C. has requested leasing space on two City of Norman Water Towers, the Brookhaven Water Tower located at 4151 West Robinson Street and the Cascade Water Tower located at 3199 36th Avenue N.W. Staff has negotiated the term of the contract to be five years to renew two additional terms of five years each. The contracts lease for $1,200 per month to increase 3% annually on the anniversary date starting the second year. The above-described contracts have been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contracts. Copies of an advisory memorandum and contracts are included in the Agenda Book.

ACTION NEEDED: 1. Acting as the Norman Utilities Authority, motion to approve or reject Contract No. K-0910-105 with Cox TMI Wireless, L.L.C. for the lease of a cell tower site for placement of equipment on the Brookhaven Water Tower; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 2. Acting as the Norman Utilities Authority, motion to approve or reject Contract No. K-0910-106 with Cox TMI Wireless, L.L.C. for the lease of a cell tower site for placement of equipment on the Cascade Water Tower; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

15. ITEM: CONTRACT NO. K-0910-119: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION (ODOT) FOR FEDERAL-AID PROJECT NO. IMY-0035-2(307)111S, STATE JOB NO. 25922(04) FOR THE CONSTRUCTION OF THE ROCK CREEK ROAD OVERPASS, PHASE II, ADOPTION OF RESOLUTION NO. R-0910-64, AND BUDGET APPROPRIATION.

INFORMATION: City Council, in its meeting of September 9, 2008, approved Contract No. K-0809-48 with ODOT for the bridge design of Phase I of the Rock Creek Road Overpass Project. The first design phase covers the bridge items that needed to be incorporated into the ODOT I-35 widening plans. Contract No. K-0809-47 also approved September 9, 2008, with Cobb Engineering addressed the second phase of design to complete the overpass project including widening Rock Creek to four lanes from 24th Avenue N.W. to 36th Avenue N.W. Prior to the bid letting for Phase 2, ODOT requires a project agreement. The estimated construction costs for Phase 2 is $8,170,000 with ODOT's share being $6,932,444 (80%) and the City's share being $1,237,556 (20%). The above-described contract has been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contract and adoption of the resolution. Copies of an advisory memorandum, contract, resolution, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: City Council Motion to approve or reject Contract No. K-0910-119- with the Oklahoma Department of Transportation; and, if approved, adopt Resolution No. R-0910-64 and authorize the execution of the contract and resolution, appropriate $60,000 from the Capital Fund Balance (050-0000-253.20-00) to Project No. DR0010, Brookhaven Creek/Robinson-Crossroads, Construction (050-9968-431.61-01), and direct payment in the amount of $1,237,556 for the City's 20% share.

ACTION TAKEN: _____

16. ITEM: CONTRACT NO. K-0910-121: A COST SHARING AGREEMENT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND SWEETGRASS COMMUNITIES, L.L.C., IN AN AMOUNT NOT-TO-EXCEED $128,300 FOR THE CITY'S SHARE FOR THE DESIGN AND CONSTRUCTION OF THE LIFT STATION D WATER LINE PROJECT IN CONNECTION WITH RED CANYON RANCH, A PLANNED UNIT DEVELOPMENT.

INFORMATION: The above-described contract has been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contract. Copies of an advisory memorandum, contract, location map, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to approve or reject Contract No. K-0910-121 with Sweetgrass Communities, L.L.C., in an amount not-to-exceed $128,300; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

17. ITEM: CONSIDERATION OF THE FOLLOWING CONTRACTS:

CONTRACT NO. K-0910-130: A REIMBURSEMENT AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CONOCOPHILLIPS PIPELINE COMPANY, A DELAWARE CORPORATION, IN THE AMOUNT OF $127,000 FOR PROPERTY LOCATED ON THE WEST SIDE OF NORTH INTERSTATE DRIVE IN CONNECTION WITH THE ROCK CREEK ROAD OVERPASS PROJECT.

CONTRACT NO. K-0910-131: A RIGHT-OF-WAY AND ENCROACHMENT AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CONOCOPHILLIPS PIPELINE COMPANY, A DELAWARE CORPORATION, FOR PROPERTY LOCATED ON THE WEST SIDE OF INTERSTATE DRIVE IN CONNECTION WITH THE ROCK CREEK ROAD OVERPASS PROJECT.

INFORMATION: City Council, in its meeting of August 11, 2009, approved Contract No. K-0910-49 with ConocoPhillips Pipeline Company, a Delaware Corporation, for property located on the west side of North Interstate Drive in connection with the Rock Creek Road Overpass Project. The encroachment agreement was necessary because ConocoPhillips owns and operates an oil pipeline in a pre-existing easement located on the west side of the Oklahoma Department of Transportation right-of-way. The contract allowed ConocoPhillips to operate and maintain their facilities with the City being responsible for repairing any damage to the bridge's west slope wall caused by ConocoPhillips. ConocoPhillips has refined the conditions outlined in Contract No. K-0910-49 and replaced the existing contract with Contract No. K-0910-131 requires the City to indemnify ConocoPhillips from actions resulting from the City's use of the right-of-way and specifically references the Rock Creek Road Overpass Project plans and drawings that show work near their pipeline. The original Contract No. K-0910-49 will become null and void upon approval of Contract No. K-0910-131. The second agreement referred to as the Reimbursement Agreement/Contract No. K-0910-130, proposes to protect a portion of ConocoPhillips' pipeline underneath the overpass by installing a steel sleeve around it and wrapping the pipeline with a corrosion inhibitor with the City paying the estimated cost of $127,000 for the work. ConocoPhillips will invoice the City if the costs are more than anticipated and if costs are less, the City will be refunded the balance. The above-described contracts have been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contracts. Copies of an advisory memorandum and contracts are included in the Agenda Book.

ACTION NEEDED: 1. Motion to approve or reject Contract No. K-0910-130, a reimbursement agreement with ConocoPhillips Pipeline Company, a Delaware Corporation, in the amount of $127,000; and, if approved; authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to approve or reject Contract No. K-0910-131, a right-of-way and encroachment agreement with ConocoPhillips Pipeline Company, a Delaware Corporation; and, if approved; authorize the execution thereof.

ACTION TAKEN: _____

18. ITEM: CONSIDERATION OF A RECOMMENDATION FROM THE CITY ATTORNEY THAT THE CITY COUNCIL APPROVE A SETTLEMENT OF KELSEY LUNSFORD VS. THE CITY OF NORMAN, CLEVELAND COUNTY DISTRICT COURT CASE NO. CJ-2008-291 BH.

INFORMATION: The above-described City Attorney's recommendation is submitted for City Council's consideration. Copies of an advisory memorandum, Staff memorandum, and lawsuit are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and, if approved, authorize the City Attorney's Office to effectuate the settlement.

ACTION TAKEN: _____

19. ITEM: RESOLUTION NO. R-0910-71: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF MUNICIPAL AND MUNICIPAL RUNOFF ELECTIONS.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. A copy of the resolution is included in the Agenda Book.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-71.

ACTION TAKEN: _____

20. ITEM: RESOLUTION NO. R-0910-78: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, APPROPRIATING $124,198.64 FROM THE CAPITAL FUND BALANCE TO PAY A CLAIM FROM THE OKLAHOMA DEPARTMENT OF TRANSPORTATION (ODOT) IN CONNECTION WITH THE ROBINSON STREET WIDENING PROJECT BETWEEN BROOKHAVEN BOULEVARD AND 48TH AVENUE N.W.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. Copies of an advisory memorandum; resolution; location map; invoice; summary of costs; Contract No. K-0304-165; and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-78; and, if adopted, direct payment in the amount of $202,787.73 to ODOT.

ACTION TAKEN: _____

21. ITEM: CONSIDERATION OF AMENDED NORMAN RURAL CERTIFICATE OF SURVEY NO. COS-0910-1 FOR WESTRIDGE FARMS ADDITION.

LOCATION: Located at the northeast corner of Tecumseh Road and 60th Avenue N.W.

INFORMATION:

1. Owner. Sassan Moghadam.

2. Developer. Sassan Moghadam.

3. Engineer. SMC Consulting Engineers, P.C.

HISTORY:

1. Refer to the Planning Commission Staff Report, October 8, 2009.

2. November 24, 2009. City Council, by a vote of 4-4, denied Norman Rural Certificate of Survey No COS-0910-1 for Westridge Farms Addition.

3. October 8, 2009. Planning Commission, by a vote of 8-0, recommended to City Council that Certificate of Survey No. COS-0910-1 for Westridge Farms Addition be approved.

PUBLIC DEDICATIONS:

1. Easements. Required easements have been provided with the Tecumseh Road Paving Project.

SUPPLEMENTAL MATERIAL: Copies of an advisory memorandum; letter from attorney representing the applicant; restrictive covenants; water service line agreement included in previous item on November 24, 2009; location maps; certificate of survey; Staff Report recommending approval; and pertinent excerpts from Planning Commission and City Council minutes are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject amended Norman Rural Certificate of Survey No. COS-0910-1; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

22. ITEM: ORDINANCE NO. O-0910-10: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, CLOSING A PUBLIC UTILITY EASEMENT STRADDLING THE COMMON BOUNDARY BETWEEN LOT 1 AND LOT 2, BLOCK 10, PARK ADDITION TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (LOCATED AT 3444 AND 3448 GRANT ROAD)

INFORMATION: Planning Commission, in its meeting of August 13, 2009, held a public hearing and received no filed protests were received regarding the following item:

> IDEAL HOMES OF NORMAN, L.P.: Requests closing a public utility easement straddling the common boundary between Lots 1 and 2, Block 10, Park Hill Addition (3444 and 3448 Grant Road)

Planning Commission, by a vote of 9-0, recommends approval of the requested closures; and City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-10 upon First Reading by title. Copies of an advisory memorandum; Ordinance No. O-0910-10; location maps; Staff Report recommending approval; letter of request; abstractor's certificate; Radius map; and pertinent excerpts from Planning Commission minutes are included in the Agenda Book.

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-10 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-10 upon Final Reading as a whole.

ACTION TAKEN: _____

23. ITEM: ORDINANCE NO. O-0910-12: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 429.3 OF CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO DEFINE THE VISIBILITY OF CHANGES TO HISTORIC STRUCTURES; TO MODIFY THE MAKEUP OF THE HISTORIC DISTRICT COMMISSION; ADDING DEFINITIONS THERETO; AND PROVIDING FOR THE SEVERABILITY THEREOF.

INFORMATION: Planning Commission, in its meeting of November 12, 2009, held a public hearing, received no filed protests on the above-described item, and by a vote of 9-0, recommends adoption of the ordinance. City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-12 upon First Reading by title. Copies of an advisory memorandum; Ordinance No. O-0910-12; legislatively notated copy of Ordinance No. O-0910-12; Staff Report recommending approval; and pertinent excerpts from Planning Commission, City Council Planning and Community Development, and City Council Conference minutes are included in the Agenda Book.

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-12 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-12 upon Final Reading as a whole.

ACTION TAKEN: _____

24. ITEM: RESOLUTION NO. R-0910-81: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING THE HISTORIC PRESERVATION GUIDELINES USED BY THE NORMAN HISTORIC DISTRICT COMMISSION IN REVIEWING REQUESTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC DISTRICTS.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. Copies of the resolution and proposed changes to the Historic Preservation Guidelines are included in the Agenda Book.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-81.

ACTION TAKEN: _____

25. ITEM: ORDINANCE NO. O-0910-18: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 4-1901 AND SECTION 4-1902 OF CHAPTER 4 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR HISTORIC DISTRICT COMMISSION MEMBER APPOINTMENTS AND PROVIDING FOR DUTIES OF COMMISSION MEMBERS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

INFORMATION: City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-18 upon First Reading by title. Copies of Ordinance No. O-0910-18 and legislatively notated copy of Ordinance No. O-0910-18 are included in the Agenda Book.

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-18 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-18 upon Final Reading as a whole.

ACTION TAKEN: _____

26. ITEM: ORDINANCE NO. O-0910-16: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING THE CALLING AND HOLDING OF A SPECIAL ELECTION IN THE CITY OF NORMAN, STATE OF OKLAHOMA (THE "CITY"), ON THE 2ND DAY OF MARCH, 2010, FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED QUALIFIED ELECTORS OF SAID CITY, THE QUESTION OF THE ISSUANCE OF THE BONDS OF SAID CITY IN AN AMOUNT NOT TO EXCEED THE SUM OF TWENTY ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($21,250,000) TO BE ISSUED IN SERIES TO PROVIDE FUNDS FOR THE PURPOSES OF (I) RECONSTRUCTING, REPAIRING, IMPROVING, AND REHABILITATING EXISTING STREETS, ROADS, AND INTERSECTIONS IN THE CITY (INCLUDING LIGHTING, SIDEWALKS/BIKE PATHS, LANDSCAPING, RELATED DRAINAGE IMPROVEMENTS, DRIVEWAY RECONSTRUCTION, AND OTHER RELATED IMPROVEMENTS), AND (II) IMPROVING THE CITY OUTDOOR SIREN WARNING SYSTEM BY ACQUIRING NEW WARNING SIRENS AND CONTROL STATION HARDWARE AND SOFTWARE, BY ACQUIRING LAND FOR WARNING SIRENS, AND BY MODIFYING AND RELOCATING CERTAIN OF THE EXISTING WARNING SIRENS, ALL TO BE OWNED EXCLUSIVELY BY THE CITY; AND LEVYING AND COLLECTING AN ANNUAL TAX, IN ADDITION TO ALL OTHER TAXES, UPON ALL THE TAXABLE PROPERTY IN SAID CITY FOR THE PAYMENT OF THE INTEREST AND PRINCIPAL ON SAID BONDS.

INFORMATION: City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-16 upon First Reading by title. Copies of an advisory memorandum, Ordinance No. O-0910-16, Special Election Proclamation and Notice of Election, and pertinent excerpts from City Council Transportation and Study Session minutes are included in the Agenda Book.

Item 26, continued:

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-16 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-16 upon Final Reading as a whole.

ACTION TAKEN: _____

27. ITEM: RESOLUTION NO. R-0910-79: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON MARCH 2, 2009.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. A copy of the Resolution is included in the Agenda Book and Ordinance No. O-0910-16 is included in the previous item.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-79.

ACTION TAKEN: _____

28. Miscellaneous Discussion: This is an opportunity for citizens to address City Council. Remarks should be directed to the Council as a whole and limited up to five minutes or less.

29. Adjournment.

5. ITEM: SUBMISSION OF THE FINANCE DIRECTOR'S INVESTMENT REPORT AS OF NOVEMBER 30, 2009.

INFORMATION: The above-described item appears on City Council's agenda in order that acknowledgment of the receipt of the report may be noted in the minutes as a matter of permanent record. A copy of the report is included in the Agenda Book.

ACTION NEEDED: Motion to acknowledge receipt of the report and direct the filing thereof.

ACTION TAKEN: _____

DATE: 02-Dec-09

TO: City Council

FROM: Anthony Francisco, Director of Finance
PREPARED BY: Clint Mercer, Chief Accountant

SUBJECT: Breakdown of Interest Earnings by Fund

| | MONTHLY COMPARISON | | | | ANNUAL COMPARISON | | | |
|---|---|---|---|---|---|---|---|---|
| FUND | MONTHLY BUDGETED INTEREST EARNINGS FYE09 | MONTHLY INTEREST EARNINGS November 2009 | MONTHLY % INCREASE (DECREASE) | MONTHLY % OF PORTFOLIO HOLDINGS | ANNUAL BUDGETED INTEREST EARNINGS FYE10-YTD | INTEREST EARNINGS YTD FYE10 | YTD % INCREASE (DECREASE) | YTD % PORTFOLIO HOLDINGS |
| GENERAL FUND | $20,833 | $9,698 | -53.45% | 17.45% | $104,167 | $63,300 | -39.23% | 17.62% |
| ROOM TAX FUND | $459 | $147 | -67.97% | 0.26% | $1,250 | $884 | -29.30% | 0.25% |
| CAPITAL PROJECTS FUND | $29,167 | $15,175 | -47.97% | 27.30% | $145,833 | $94,587 | -35.14% | 26.33% |
| SINKING FUND | $3,333 | $1,103 | -66.90% | 1.98% | $16,667 | $7,909 | -52.54% | 2.20% |
| G.O. BOND FUND | $167 | $84 | -49.89% | 0.15% | $833 | $459 | -44.88% | 0.13% |
| WESTWOOD FUND | $625 | $56 | -91.02% | 0.10% | $3,125 | $2,858 | -8.55% | 0.80% |
| WATER FUND | $10,000 | $5,697 | -43.03% | 10.25% | $50,000 | $36,701 | -26.60% | 10.22% |
| WASTEWATER FUND | $25,000 | $5,388 | -78.45% | 9.69% | $125,000 | $33,399 | -73.28% | 9.30% |
| HALLPARK FUND | N/A | $17 | 100.00% | 0.03% | N/A | $105 | 100.00% | 0.03% |
| DEVELOPMENT EXCISE | $16,667 | $6,735 | -59.59% | 12.12% | $83,333 | $40,005 | -51.99% | 11.14% |
| SEWER SALES TAX | $16,667 | $7,081 | -57.52% | 12.74% | $83,333 | $47,688 | -42.77% | 13.27% |
| SANITATION FUND | $2,500 | $1,296 | -48.18% | 2.33% | $12,500 | $11,017 | -11.87% | 3.07% |
| PARKLAND FUND | $2,211 | $810 | -63.38% | 1.46% | $11,054 | $5,148 | -53.43% | 1.43% |
| TRUST & AGENCY FUNDS | N/A | $2 | 100.00% | 0.00% | N/A | $15 | 100.00% | 0.00% |
| TAX INCREMENT DISTRICT | $417 | $1,158 | 100.00% | 2.08% | $2,083 | $7,426 | 100.00% | 2.07% |
| SPECIAL GRANTS FUND | N/A | $149 | 100.00% | 0.27% | N/A | $1,275 | 100.00% | 0.35% |
| CLEET FUND | N/A | $5 | 100.00% | 0.01% | N/A | $70 | 100.00% | 0.02% |
| HOUSING | N/A | $74 | 100.00% | 0.13% | N/A | $368 | 100.00% | 0.10% |
| SITE IMPROVEMENT FUND | N/A | $30 | 100.00% | 0.05% | N/A | $188 | 100.00% | 0.05% |
| ARTERIAL ROAD FUND | N/A | $631 | 100.00% | 1.14% | N/A | $4,114 | 100.00% | 1.15% |
| SEIZURES | $42 | $254 | 510.32% | 0.46% | $208 | $1,741 | 735.56% | 0.48% |
| | $128,087 | $55,587 | -56.60% | 100.00% | $639,388 | 359,257 | -43.81% | 100.00% |

City funds are invested in interest bearing accounts and investment securities, as directed by the City's Investment Policy. Rates of return on these investments relate directly to current Treasury and Money Market rates. Total funds on deposit of $ 109.07 million as of 11/30/09 are represented by working capital cash balances of all City funds of approximately $ 38.58 million, outstanding encumbrances of $36.8 million, General Oblig.ation Bond proceeds of $12.4, NUA revenue bond proceeds of $20.9 million, and NMA bond proceeds of $.39 million.

**INVESTMENT BY TYPE**

November 30, 2009

| LIST BY TYPE | SEC. NO. | PURCHASED | MATURITY | YIELD | EARNED INTEREST | COST | MARKET |
|---|---|---|---|---|---|---|---|
| **Checking | | | | | | | |
| BANK OF AMERICA | NUA REV. FD. | | | | $0.00 | $0.00 | $0.00 |
| BANK OF AMERICA | GEN'L DEP. | | | 0.50% | $1,910.56 | $7,862,186.00 | $7,862,186.00 |
| BANK OF AMERICA | WARRANTS PAYABLE | | | | $0.00 | ($4,765,679.89) | ($4,765,679.89) |
| BANK OF AMERICA | PAYROLL | | | | $0.00 | ($2,670,101.25) | ($2,670,101.25) |
| BANK OF AMERICA | COURT BOND REFUNDS | | | | $0.00 | $204,873.00 | $204,873.00 |
| BANK OF AMERICA | INSURANCE CLAIMS | | | | $0.00 | ($573,663.84) | ($573,663.84) |
| BANK OF AMERICA | HALLPARK | | | 0.01% | $1.54 | $183,344.01 | $183,344.01 |
| **Subtotal | | | | | $1,912.10 | $240,958.03 | $240,958.03 |
| **Money Market | | | | | | | |
| BANCFIRST-NUA | MONEY MKT. | | | 0.01% | $8.54 | $1,228,912.44 | $1,228,912.44 |
| BANCFIRST-NMA Sanitat. | MONEY MKT. | | | 0.01% | $0.25 | $62,400.12 | $62,400.12 |
| BANCFIRST-NMA Golf | MONEY MKT. | | | 0.01% | $0.61 | $328,709.84 | $328,709.84 |
| BANCFIRST-NUA Water | MONEY MKT. | | | 0.01% | $171.45 | $19,692,917.30 | $19,692,917.30 |
| FIRST FIDELITY | MONEY MKT. | | | 0.50% | $55.54 | ($9,448.39) | ($9,448.39) |
| BANK OF AMERICA | MONEY MKT. | | | 0.01% | $3.70 | $211,780.08 | $211,780.08 |
| BANK OF AMERICA | MONEY MKT. | | | 0.15% | $21.88 | $355,393.48 | $355,393.48 |
| BANK OF AMERICA - Drinking W | MONEY MKT. | | | 0.05% | $67.96 | $630,037.77 | $630,037.77 |
| BANK OF AMERICA - Clean Wat | MONEY MKT. | | | 0.05% | $258.79 | $629,860.01 | $629,860.01 |
| BANK OF AMERICA-2007A | MONEY MKT. | | | 0.08% | $81.69 | $1,635,011.08 | $1,635,011.08 |
| BANK OF AMERICA-2007B | MONEY MKT. | | | 0.08% | $2.73 | $56,592.11 | $56,592.11 |
| BANK OF AMERICA-2008A | MONEY MKT. | | | 0.50% | $2,136.91 | $5,202,249.11 | $5,202,249.11 |
| BANK OF AMERICA-2008B | MONEY MKT. | | | 0.50% | $2,250.11 | $5,477,834.68 | $5,477,834.68 |
| **Subtotal | | | | | $5,060.16 | $35,502,249.63 | $35,502,249.63 |
| **Sweep/Overnight | | | | | | | |
| JP MORGAN | SHORT TERM | | | 0.00% | $0.00 | $16,847,791.76 | $16,847,791.76 |
| MERRILL LYNCH | SHORT TERM | | | 0.12% | $2,385.69 | $23,346,490.99 | $23,346,490.99 |
| **U.S. Treasury Securities | | | | | | | |
| FHLB | 3133X8RL8 | 05/30/08 | 12/23/09 | 2.98% | 31,346.01 | 12,500,000.00 | $12,523,500.00 |
| T-Note | 912828HJ2 | 02/27/09 | 11/30/09 | 0.72% | 3,943.82 | 0.00 | $0.00 |
| FHLB | 3133XFJY3 | 08/31/09 | 06/10/11 | 1.11% | 5,634.73 | 5,555,000.00 | $5,935,184.20 |
| FHLB | 3133XTGZ3 | 08/31/09 | 07/08/10 | 0.43% | 1,852.49 | 5,000,000.00 | $5,021,900.00 |
| T-Note | 912828JA9 | 08/31/09 | 05/31/10 | 0.32% | 949.99 | 5,000,000.00 | $5,060,550.00 |
| T-Note | 912828JS0 | 08/31/09 | 11/30/10 | 0.55% | 2,071.06 | 5,000,000.00 | $5,048,050.00 |
| U.S. STRIPS (Hallpark) | 912833KC3 | 06/09/04 | 05/15/14 | 5.12% | 431.27 | 79,860.00 | $121,339.68 |
| **Subtotal | | | | | 46,229.37 | 33,134,860.00 | $33,710,523.88 |
| **TOTAL** | | | | | 55,587.32 | 109,072,350.41 | $109,648,014.29 |

The Governmental Accounting Standards Board requires the reporting of market values of investment securities. These market values represent the amount of money the security would sell for on the open market, if cash flow demands were such that the security had to be sold. The City of Norman purchases investment securities with the intent of holding them to maturity, as stated in the City's Investment Policy. Only in exceptional circumstances would securities be sold before their maturity, due to cash flow demands or favorable market conditions.

6. ITEM: SUBMISSION OF THE MONTHLY DEPARTMENTAL REPORTS FOR THE MONTH OF NOVEMBER, 2009.

INFORMATION: The above-described item appears on City Council's agenda in order that acknowledgment of the receipt of the reports may be noted in the minutes as a matter of permanent record. Copies of the reports are included in the Agenda Packet Copies of the reports are included in the Agenda Packet or transmitted electronically.

ACTION NEEDED: Motion to acknowledge receipt of the reports and direct the filing thereof.

ACTION TAKEN: _____

7. ITEM: SUBMISSION OF REPORTS ENTITLED "COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED JUNE 30, 2009," AS PREPARED BY THE FIRM OF COLE AND REED, P.C., FOR THE CITY OF NORMAN, OKLAHOMA, NORMAN UTILITIES AUTHORITY, NORMAN MUNICIPAL AUTHORITY, AND NORMAN TAX INCREMENT FINANCE AUTHORITY.

INFORMATION: The above-described item appears on City Council's agenda in order that acknowledgment of receipt of the reports may be noted in the minutes as a matter of permanent record. A copy of an advisory memorandum is included in the Agenda Book and the report is included in the Agenda packet.

ACTION NEEDED: Acting as the City Council, Norman Utilities Authority, Norman Municipal Authority, and Norman Tax Increment Finance Authority, motion to acknowledge receipt of the reports and direct the filing thereof.

ACTION TAKEN: _____

office memorandum

**Date:** December 15, 2009

**To:** Honorable Mayor and City Council Members

**From:** Clint Mercer, Chief Accountant

**Through:** Anthony Francisco, Director of Finance

**Subject:** Agenda Item – Acceptance of Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2009

**BACKGROUND:**

Oklahoma Statutes, Title 11, Section 17-105 require that an audit of the funds, assets, books and records of the clerk and treasurer of the City be prepared and reviewed by an independent qualified accountant. The City of Norman has, since fiscal year 1989, prepared an audit in conformance with Generally Accepted Accounting Principles (GAAP) promulgated by the Governmental Accounting Standards Board (GASB). For the past seventeen fiscal years, the City has received the Government Finance Officers Association's Award for Achievement for Excellence in Financial Reporting.

On March 25, 2008, the Council accepted the proposal of Cole and Reed, P.C. (RFP 0708-64), to provide independent auditing services for the City of Norman, the Norman Municipal Authority, the Norman Tax Increment Finance Authority, the Norman Utilities Authority and related entities for a period of three fiscal years with an option to extend the services for an additional two fiscal years.

**DISCUSSION:**

For the seventh fiscal year, the financial statements in this Comprehensive Annual Financial Report (CAFR) are presented in a format compliant with GAAP standard number 34, promulgated by the GASB.

The financial statements of both the City and its Trusts have received an unqualified opinion from Cole and Reed, P.C. that they fairly represent the financial position of the City as of June 30, 2009 (FYE 09) in all material respects.

**RECOMMENDATION:**

It is recommended that the FYE 09 CAFR be accepted.

Reviewed by: Steven Lewis, City Manager
Jeff Bryant, City Attorney

8. ITEM: CONSIDERATION OF BID NO. 0910-34; CONTRACT NO. K-0910-103 WITH DIVERSIFIED CONSTRUCTION OF OKLAHOMA, INC., IN THE AMOUNT OF $2,064,000; PERFORMANCE BOND NO. B-0910-32; STATUTORY BOND NO. B-0910-33; MAINTENANCE BOND NO. MB-0910-27; AND RESOLUTION NO. R-0910-80 FOR THE FIRE STATION NO. EIGHT CONSTRUCTION PROJECT LOCATED ON 36TH AVENUE N.W., ONE-FOURTH MILE NORTH OF TECUMSEH ROAD AND BUDGET APPROPRIATION.

INFORMATION: Staff has examined the bids, contract, and bonds and found them to be in order and proper as to form. Staff recommends acceptance of the bids; the subsequent awarding of the bid as indicated below; approval of the contract and bonds; and adoption of the project agent resolution. Copies of an advisory memorandum; bid tabulation; location map; conceptual drawing; contract with Diversified Construction of Oklahoma, Inc., in the amount of $2,064,000; the performance, statutory, and maintenance bonds; Resolution No. R-0910-80; and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Motion to accept or reject all bids meeting specifications; and, if accepted, award the bid in the amount of $2,064,000 to Diversified Construction of Oklahoma, Inc., as the lowest and best bidder meeting specifications; approve Contract No. K-0910-103 and the performance, statutory, and maintenance bonds; direct the filing of the bonds; authorize execution of the contract; adopt Resolution No R-0910-80; and appropriate $341,626 from Public Safety Sale Tax Fund (010-0000-313.10-09) and $17,981 from Public Safety Use Tax Fund (010-0000-313.10-10) to Project No. FT0002, Fire Station #8 West Side, Construction (050-9377-419.61-01).

ACTION TAKEN: _____

office memorandum

**DATE:** December 3, 2009

**TO:** Honorable Mayor and City Council

**FROM:** James Fullingim, Fire Chief

**SUBJECT:** Agenda Item – Acceptance of Bid #0910-34; Approval of Contract K-0910-103; Performance Bond B-0910-32; Statutory Bond B-0910-33; and Maintenance Bond MB-0910-23; Approval of Resolution Number R-0910-80; Authorizing and Appointing Diversified Construction of Oklahoma as Project Agent for the Construction of Fire Station #8; and Appropriate Funds to Project FT0002 – Fire Station #8

**Background:** In May 2008, a City sales tax was approved by the voters to build two additional fire stations. After the sales tax was approved, Staff was directed to begin the process to acquire appropriate sites for the fire stations, one to be located on the west side of Norman and the other on the east side to improve service area and response times.

Several possible sites were identified for the fire station locations. Although the west side fire station (Fire Station #8) was originally slated for acquisition first, the opportunity to acquire the east side site arose and Staff was directed by Council to negotiate for the purchase of land for the east side fire station (Fire Station #9). Funds had been budgeted in the FYE 09 budget for land acquisition ($500,000) and design and construction ($2,500,000) for Fire Station #8 on the west side of Norman. Contract No. K-0809-67 was approved by Council on November 10, 2008, and Staff was directed to use allocated Public Safety Sales Tax funds budgeted for the purchase of land for Fire Station #8 on the west side of Norman to purchase the five (5) acre tract for the fire station on the east side. The total cost of the east side fire station land acquisition was $358,605.50.

Although the opportunity arose for the purchase of the east side property earlier than originally anticipated, Fire Station #8 remains a priority for construction. On April 14, 2009, Council approved a contract with Kirkpatrick Architecture Studio to provide architectural services for Fire Station #8.

The item now before Council is a contract for construction of Fire Station #8 and the companion budget appropriation to provide funding for construction and other associated costs, such as fiber optics installation and associated computer cabling, constructing a fuel site, adding an outdoor storage facility, etc.

**Discussion:**

*Acceptance of Bid #0910-34 and Approval of K-0910-103 and associated bonds.* An acceptable fire station plan was designed and the bid documents were prepared by Kirkpatrick Architecture Studio. The fire station specifications were then publicized and sent to six contractors to complete the process of soliciting bids. We received and opened bids from ten contractors on November 19, 2009. These bids ranged from $2,064,000 to $2,448,000. After due consideration was given to

the bids, the current fire station design and all alternates, Staff believes that the best course of action is to award the contract to Diversified Construction of Oklahoma, who, after review of all proposals, submitted the lowest and best bid of $2,064,000. K-0910-103 and associated bonds are attached for Council consideration.

*Budget Appropriation.* The Fire Station #8 funds that were used to purchase the land for Fire Station #9 need to be restored to allow completion of the project by an appropriation of General Fund revenue from the public safety sales tax (010-0000-313.10-09) and use tax (010-0000-313.10-10) accounts in the amounts of $341,625.70 and $17,980.30, respectively. This will allow for completion of construction as well as completion of those additional items required for the station to be completely operational (fiber optics, computer cabling, fuel site, etc).

**Recommendation:** After review of the bids, K-0910-103, and associated documents, Staff submits the following:

1. It is recommended that City Council award Bid #0910-34 for the construction of Fire Station #8 to Diversified Construction of Oklahoma as the lowest and best bidder.

2. It is further recommended that City Council authorize and enter into Contract K-0910-103 between the City of Norman and Diversified Construction of Oklahoma in the amount of $2,064,000.00 for construction of Fire Station #8; and approve Performance Bond B-0910-32; Statutory Bond B-0910-33; and Maintenance Bond MB-0910-23.

3. It is further recommended that Diversified Construction of Oklahoma be authorized and appointed as project agent for the Fire Station #8 Construction by Resolution Number R-0910-80.

4. It is further recommended that City Council approve an appropriation of $341,626 from General Fund revenue public safety sales tax (010-0000-313.10-09) and $17,981 from public safety use tax (010-0000-313.10-10) accounts into Project No. FT0002, Fire Station #8 West Side, Construction (050-9377-419.61-01).

Attachments: Bid No. 0910-34 Tabulation of Bids
K-0910-103 and related bonds for Construction of Fire Station #8
R-0910-80 appointing Diversified Construction as Project Agent

Reviewed by: Susan Connors, Planning and Community Development Director SFC
Linda Price, Revitalization Manager LRP
Anthony Francisco, Finance Director A.F.
Clint Mercer, Municipal Accountant
Frederick Duke, Procurement Analyst FD
Jeff Bryant, City Attorney KWB
Steve Lewis, City Manager

**CITY OF NORMAN**
**OFFICE OF THE PURCHASING AGENT**
**NORMAN, OKLAHOMA**

**BID NO. 0910-34**

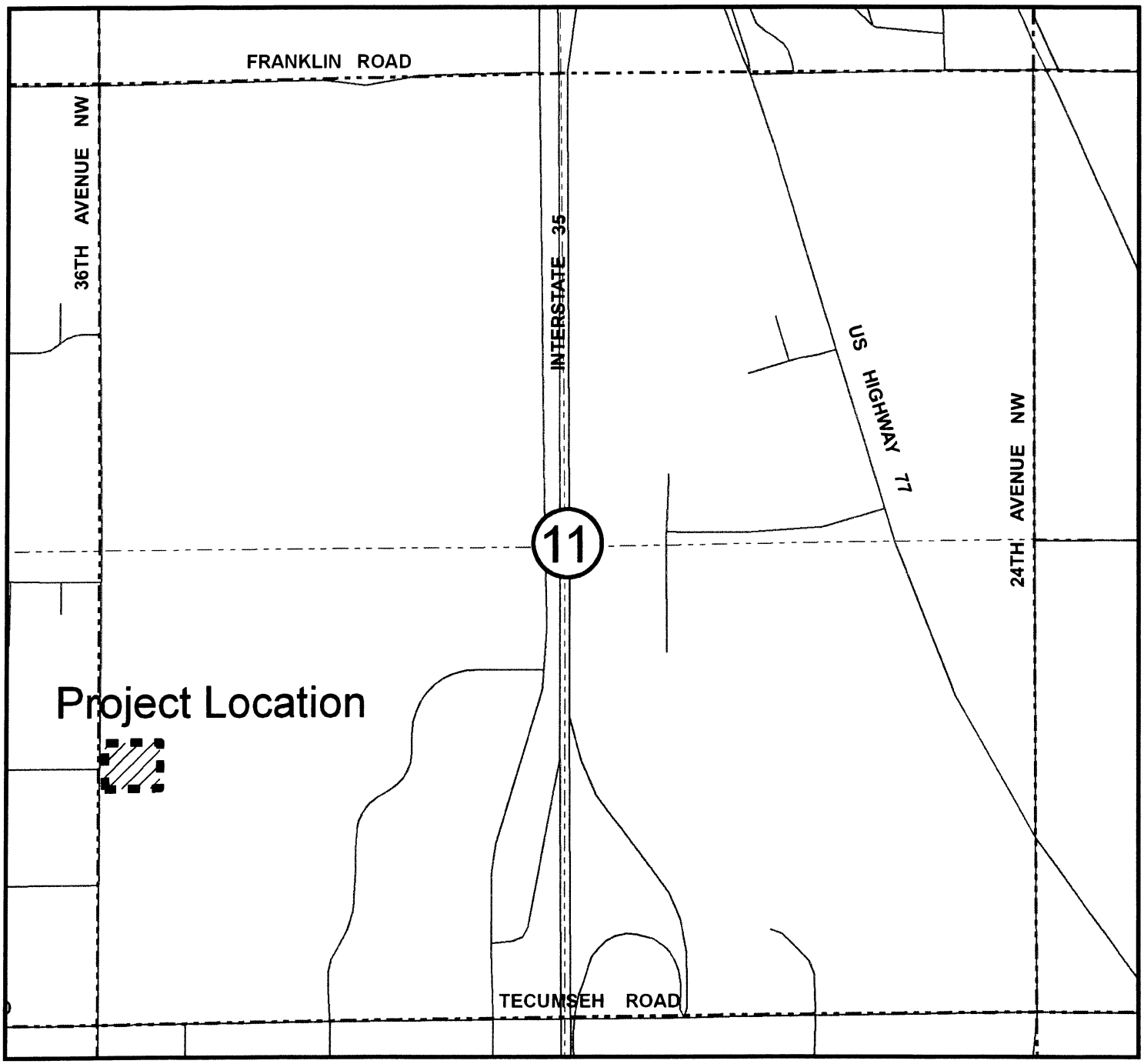
**TABULATION OF BIDS**

The following is a tabulation of bids received by the City of Norman for the construction of Fire Station No. 8 for the Norman Fire Department. This item has been budgeted for Fiscal Year 2010 in Capital Fund, Capital Projects Account 050-9377, project FT0002.

| Bidder: | Final Bid | Alternate 1 | Alternate 2 | Alternate 3 |
|---|---|---|---|---|
| 1. Nashert Construction | $2,187,900 | ($90,000) | $13,600 | $30,900 |
| 2. Ben Hayes Construction, Inc. | $2,310,865 | ($75,000) | $4,900 | $32,480 |
| 3. W.L. McNatt & Company | $2,161,600 | ($84,500) | ($4,600) | $32,600 |
| 4. Pope Contracting, Inc. | $2,378,700 | ($102,000) | ($8,100) | $55,700 |
| 5. Diversified Construction | $2,064,000 | ($107,000) | $3,300 | ($45,000) |
| 6. J.L. Walker Construction, Inc. | $2,340,802 | ($98,370) | $5,852 | $32,802 |
| 7. Pillar Contracting, Inc. | $2,101,800 | ($96,800) | $13,500 | $41,800 |
| 8. TDC Construction | $2,140,500 | ($266,000) | $1,000 | $40,500 |
| 9. Jenco Construction | $2,448,000 | ($58,000) | ($5,500) | ($49,000) |
| 10. MacHill Construction | $2,379,000 | ($87,500) | ($11,000) | ($39,500) |

Alternate 1: Reduce truck bays from three to two.
Alternate 2: Substitute stained concrete for dyed and polished concrete floors.
Alternate 3: Eliminate landscaping.

**RECOMMENDATION:** It is recommended that the contract be awarded to Diversified Construction of Oklahoma, Inc. as the best bidder meeting specifications.




Vicinity Map

CONTRACT

THIS CONTRACT made and entered into this_____ day of _____, 20___, by and between Diversified Construction of Oklahoma, as Party of the First Part, hereinafter designated as the CONTRACTOR, and the City of Norman, a municipal corporation, hereinafter designated as the CITY, Party of the Second Part.

WITNESSETH

WHEREAS, the CITY has caused to be prepared in accordance with law, specifications, and other bidding documents for the work hereinafter described and has approved and adopted all of said bidding documents, and has caused Notice to Bidders to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for the following project:

**FIRE STATION NUMBER EIGHT CONSTRUCTION PROJECT**

as outlined and set our in the bidding documents and in accordance with the terms and provisions of said CONTRACT; and,

WHEREAS, the CONTRACTOR in response to said Notice to Bidders, has submitted to the CITY on the manner and at the time specified, a sealed proposal in accordance with the terms of this Contract; and,

WHEREAS, the CITY, in the manner provided by law, has publicly opened, examined, and canvassed the proposals submitted and has determined and declared the above-named CONTRACTOR to be the lowest and best Bidder on the above-prepared project, and has duly awarded this CONTRACT to said CONTRACTOR, for the sum named in the proposal, to wit: two million sixty four thousand and no cents Dollars ($2,064,000.00);

NOW, THEREFORE, for and in consideration of the mutual agreements, and covenants herein contained, the parties to this CONTRACT have agreed, and hereby agree, as follows:

1) The CONTRACTOR shall, in a good and first-class, workman-like manner at his own cost and expense, furnish all labor, materials, tools, and equipment required to perform and complete said work in strict accordance with this CONTRACT and the following CONTRACT Documents: The Bid Notice published in the Norman Transcript, the Notice to Bidders, Instruction to Bidders, the Contractor's Bid or Proposal, the Construction Drawings, Specifications, Provisions, and Bonds thereto, all of which documents are on file in the Office of the Purchasing Agent of the City of Norman, and are made a part of this CONTRACT as fully as if the same were set out at length.

2) The CITY shall make payments minus a retainage as stipulated in the contract documents to the CONTRACTOR in the following manner: On or about the first day of each month, the project engineer, or other appropriate person, will make accurate estimates of the value, based on CONTRACT prices, or work done, and materials incorporated in the work and of materials suitably stored at the site thereof during the preceding calendar month. The CONTRACTOR shall furnish to the project engineer, or other appropriate person, such detailed information as he may request to aid him as a guide in the preparation of the monthly estimates.

Each monthly estimate for payment must contain or have attached an affidavit in accordance with the Constitution of the State of Oklahoma, Title 74, Section 3109-3110, and Title 62, Section 310.09.

On completion of the work, but prior to the acceptance thereof by the CITY, it shall be the duty of the project engineer, or other appropriate person, to determine that said work has been completely and fully performed in accordance with said CONTRACT Documents; and upon making such determinations said official shall make his final certificate to the CITY.

The CONTRACTOR shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid and settled; said information shall be in the form of an affidavit, which shall bear the approval of the surety on the CONTRACT Bonds for payment of the final estimate to the CONTRACTOR; thereupon, the final estimate (including retainage) will be approved and paid.

3) It is further agreed that the CONTRACTOR will commence said work within 5 days following receipt of a NOTICE-TO-PROCEED, and prosecute the same vigorously and continuously, and complete the same 365 calendar days following receipt of said NOTICE-TO-PROCEED.

4) That the CITY shall pay the CONTRACTOR for the work performed as follows:

a. Payment for unit price items shall be at the unit price bid for actual construction quantities.

b. Construction items specified but not included as bid items shall be considered incidental and shall not be paid for directly, but shall be included in the bid price for any or all of the pay quantities.

Should any defective work or materials be discovered or should a reasonable doubt arise at to the quality of any work completed, there will be deducted from the next estimate an amount equal to the value of the defective or questionable work and shall not be paid until the defects are remedied.

And that the CONTRACTOR'S bid is hereby made a part of this Agreement.

5) That the CITY reserves the right to add to or subtract from the estimated quantities or amount of work to be performed up to a maximum of 15% of the total bid price. The work to be performed or deducted shall be at the unit price bid.

6) That the CONTRACTOR will not undertake to furnish any materials or to perform any work not specifically authorized under the terms of this Agreement unless additional materials or work are authorized by written Change Order, executed by the CITY; and that in the event any additional work are provided by the CONTRACTOR without such authorization, the CONTRACTOR shall not be entitled to any compensation therefore whatsoever.

7) That if any additional work is performed or additional materials provided by the CONTRACTOR upon authorization by the CITY, the CONTRACTOR shall be compensated therefor at the unit price and as agreed to by both parties in the execution of the Change Order.

8) That the CONTRACTOR shall perform the work and provide the materials strictly in accordance with the specifications as to quality and kind and all work and materials shall be subject to rejection by the CITY through its authorized representatives for failure to meet such requirements, and in the event of such rejection, the CONTRACTOR shall replace the work and materials without compensation therefor by the CITY.

9) The CONTRACTOR shall complete the work in accordance with the terms of this Agreement. The CONTRACTOR further agrees to pay as liquidated damages as stipulated in the contract document General Conditions for each calendar day thereafter.

10) The CONTRACTOR shall furnish surety bonds and certificate of insurance as specified herein which bonds and insurance must be approved by the CITY prior to issuance of the Work Order and commencement of work on the project.

11) IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in three (3) duplicate originals, the day and year first above written.

To that end, no provision of this CONTRACT or of any such aforementioned document shall be interpreted or given legal effect to create an obligation on the part of the CITY to third persons, including, by way of illustration but not exclusion, sureties upon performance bonds, payment bonds or other bonds, assignees of the CONTRACTOR, subcontractors, and persons performing labor, furnishing material or in any other way contributing to or assisting in the performance of the obligations of the CONTRACTOR; nor shall any such provisions be interpreted or given legal effect to afford a defense against any obligation owed or assumed by such third person to the CITY or in any way to restrict the freedom of the CITY to exercise full discretion in its dealing with the Contractor.

12) The sworn, notarized statement below must be signed and notarized before this Contract will become effective.

STATE OF OKLAHOMA )
COUNTY OF OKLAHOMA )

MARK LATHAM, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by CONTRACTOR to submit the above CONTRACT to the CITY. Affiant further states that CONTRACTOR has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the CITY any money or other thing of value, either directly or indirectly, in the procuring of the CONTRACT.

Submitted and sworn to before me this 14TH day of DECEMBER, 20 09.

Kenneth Feuchau
Notary Public

My Commission Expires:
12/29/2009

KENNETH FEUCHAU NOTARY # 06000131 EXP. 12/29/09 PUBLIC STATE OF OKLAHOMA

IN WITNESS WHEREOF, the said parties of the First and Second Part have hereunto set their hands and seals respectively the _____day of _____, 20___, and the ____day of _____, 20___.

(Corporate Seal) (where applicable)

MARK LATHAM
Principal

ATTEST:

Signed: _____
Authorized Representative

VICE PRESIDENT
Title

_____
Corporate Secretary (where applicable)

Address: 6288 BOUCHER DRIVE
EDMOND, OK 73034

Telephone: (405) 340-3164

CITY OF NORMAN

Approved as to form and legality this 15 day of December, 2009.

_____
City Attorney

Approved by the City of Norman this_____ day of _____, 20__.

ATTEST:

_____
City Clerk

_____
Mayor

# PERFORMANCE BOND

Know all men by these presents, that Diversified Construction of Oklahoma, Inc. as PRINCIPAL, and The Ohio Casualty Insurance Company, a corporation organized under the laws of the State of Ohio, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto THE CITY OF NORMAN, a Municipal Corporation of the State of Oklahoma, herein called CITY, in the sum of Two Milliion, Sixty-Four Thousand Dollars and 00/100**** DOLLARS, ($ 2,064,000.00), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

WHEREAS, the conditions of this obligation are such that the PRINCIPAL, being the lowest and best Bidder on the following project:

**FIRE STATION NUMBER EIGHT CONSTRUCTION PROJECT**

has entered into a written CONTRACT (B-0910-32)with THE CITY OF NORMAN, dated _____, for the erection and construction of this PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

NOW, THEREFORE, if PRINCIPAL shall, in all particulars, well and truly perform and abide by said CONTRACT and all specifications and covenants thereto; and if the PRINCIPAL shall promptly pay or cause to be paid all indebtedness incurred for labor and materials and repairs to and parts for equipment furnished in the making of this PROJECT, whether incurred by the PRINCIPAL or subcontractors; and if the PRINCIPAL shall protect and hold harmless the CITY form all loss, damage, and expenses to life or property suffered or sustained by any person, firm, or corporation caused by PRINCIPAL or his or its agents, servants, or employees in the construction of the PROJECT, or by or in consequence of any negligence carelessness or misconduct in guarding and protecting the same, or from any act or omission of PRINCIPAL of his or its agents, servants, or employees; and if the PRINCIPAL shall protect and save the CITY harmless form all suits and claims of infringement or alleged infringement or patent rights or processes, then this obligation shall be null and void. Otherwise this obligation shall remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in the CONTRACT and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

It is further expressly agreed that the PRINCIPAL's obligations under this Bond include payment of not less than the prevailing hourly rate of wages as established by the Commissioner of Labor or as determined by a court on appeal.

IN WITNESS WHEREOF, the PRINCIPAL has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), and the _____day of _____, 20__, and the SURETY has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative(s) on the _____day of _____, 20 __.

(Corporate Seal) (where applicable)

Diversified Construction of Oklahoma, Inc.
Principal

ATTEST:

Signed: _____
Authorized Representative

_____
Corporate Secretary (where applicable)

V.P.
Title

Address: 3609 VALLEY CR RD. EDMOND OK
Telephone: 405-202-6000

(Corporate Seal) (where applicable)

The Ohio Casualty Insurance Company
Surety

ATTEST:

Signed: Lindsey Brown
Authorized Representative

Lindsey Brown Attorney-In-Fact
Title

_____
Corporate Secretary (where applicable)

Address: 121 E. Main, Jenks, OK 74037
Telephone: 918-299-2345

**CORPORATE ACKNOWLEDGMENT**

STATE OF OKLAHOMA _____)
COUNTY OF OKLAHOMA _____)

The foregoing instrument was acknowledged before me this 14 day of Dec, 2009, by MARK K LATHAM V.P (Name & Title) of DIVERSIFIED CONST. OF OKLAHOMA, a OKLA. corporation, on behalf of the corporation.

WITNESS my hand and seal this 14th day of December, 2009.

Kenneth Ferchau
Notary Public

My Commission Expires: 12-29-2009

KENNETH FERCHAU NOTARY # 06000131 EXP. 12/29/09 PUBLIC STATE OF OKLAHOMA

## INDIVIDUAL ACKNOWLEDGMENT

STATE OF OKLAHOMA_____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____day of _____, 20__,
by _____ (Name & Title) of _____, a
_____.

WITNESS my hand and seal this ____day of _____, 20___.

_____
Notary Public

My Commission Expires: _____

## PARTNERSHIP ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this ____day of _____, 20__, by
_____ (Name & Title) partner (agent) on behalf of
_____, a partnership.

WITNESS my hand and seal this ____day of _____, 20___.

_____
Notary Public

My Commission Expires: _____

**CITY OF NORMAN**

Approved as to form and legality this 15 day of December, 2009.

CITY Attorney

Approved by the CITY OF NORMAN this____ day of _____, 20__.

ATTEST:

_____ _____
City Clerk Mayor

# STATUTORY BOND

Know all men by these presents that Diversified Construction of Oklahoma, Inc., as PRINCIPAL, and The Ohio Casualty Insurance Company, a corporation organized under the laws of the State of Ohio, and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the State of Oklahoma in the sum of Two Million, Sixty-Four Thousand Dollars and 00/100***** DOLLARS ($ 2.064.000.00), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs executors, administrators, successors and assigns jointly and severally.

WHEREAS, the conditions of this obligation are such, that the PRINCIPAL, being the lowest and best bidder on the following PROJECT:

**FIRE STATION NUMBER EIGHT CONSTRUCTION PROJECT**

has entered into a written CONTRACT (B-0910-33) with THE CITY OF NORMAN, dated _____, for the erection and construction of this PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

NOW, THEREFORE, if the PRINCIPAL, shall properly and promptly complete the work on this PROJECT in accordance with the CONTRACT, and shall well and truly pay all indebtedness incurred for labor and materials and repairs to an parts for equipment furnished in the making of the PROJECT, whether incurred by the PRINCIPAL, his subcontractors, or any material men, then this obligation shall be void. Otherwise this obligation shall remain in full force and effect. If debts are not paid within thirty (30) days after the same becomes and due and payable, the person, firm, or corporation entitled thereto may sue and recover on this Bond, subject to the provisions of 61 O.S. 1981 S2, for the amount so due and unpaid.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said CONTRACT and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the SURETIES, or any of them, from the obligation of this Bond.

It is further expressly agreed that the PRINCIPAL'S obligations under this Bond include payment of not less than the prevailing hourly rate of wages as established by the Commissioner of Labor of the State of Oklahoma and by the Secretary of the U.S. department of Labor or as determined by a court on appeal.

IN WITNESS WHEREOF, the PRINCIPAL has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), and the _____day of _____, 20__, and the SURETY has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative(s) on the _____day of _____, 20 __.

(Corporate Seal) (where applicable)

Diversified Construction of Oklahoma, Inc.
Principal

ATTEST:

Signed: _____
Authorized Representative

_____
Corporate Secretary (where applicable)

V.P
Title

Address: 3609 VALLEY CR RD EDMOND OK
Telephone: 405-202-6000

(Corporate Seal) (where applicable)

The Ohio Casualty Insurance Company
Surety

ATTEST:

Signed: Lindsey Brown
Authorized Representative

_____
Corporate Secretary (where applicable)

Lindsey Brown Attorney-In-Fact
Title

Address: 121 E. Main, Jenks, OK 74037
Telephone: 918-299-2345

**CORPORATE ACKNOWLEDGMENT**

STATE OF OKLAHOMA _____)
COUNTY OF OKLAHOMA _____)

The foregoing instrument was acknowledged before me this 14 day of Dec., 2009, by MARK K LATHAM V.P. (Name & Title) of DIVERSIFIED CONST. OF OKLA., a OKLA corporation, on behalf of the corporation.

WITNESS my hand and seal this 14th day of December, 2009.

Kenneth Ferchau
Notary Public

My Commission Expires: 12-29-2009

KENNETH FERCHAU NOTARY PUBLIC # 06000131 EXP. 12/29/09 STATE OF OKLAHOMA

Page 2 of 3
Statutory Bond No. B-0910-33

## INDIVIDUAL ACKNOWLEDGMENT

STATE OF OKLAHOMA_____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____day of _____, 20__, by _____ of _____, (Name and Title) of _____.

WITNESS my hand and seal this ____day of _____, 20___.

_____
Notary Public

My Commission Expires: _____

## PARTNERSHIP ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this ____day of _____, 20__, by _____ partner (agent) on behalf of _____, a partnership.

WITNESS my hand and seal this ____day of _____, 20___.

_____
Notary Public

My Commission Expires: _____

**CITY OF NORMAN**

Approved as to form and legality this 15 day of December, 2009.

City Attorney

Approved by the CITY OF NORMAN this____ day of _____, 20___.

ATTEST:

City Clerk

Mayor

# CITY OF NORMAN
# MAINTENANCE BOND

Know all men by these present that Diversified Construction of Oklahoma, Inc., as Principal, and The Ohio Casualty Insurance Company, a corporation organized under the laws of the State of Ohio, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto the CITY OF NORMAN, OKLAHOMA, a Municipal Corporation of the State of Oklahoma, herein called CITY, in the sum of Two Million, Sixty-Four Thousand Dollars and 00/100***** DOLLARS ($ 2,064,000.00), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the conditions of this obligation are such that the PRINCIPAL, being the lowest and best bidder on the following project:

**FIRE STATION NUMBER EIGHT CONSTRUCTION PROJECT**

has entered into a written CONTRACT (MB-0910-103) with THE CITY OF NORMAN, dated _____, for the erection and construction of this PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth; and,

WHEREAS, under the ordinances of the CITY, the PRINCIPAL is required to furnish to the CITY a maintenance bond covering said construction of this PROJECT, the bond to include the terms and provisions hereinafter set forth, as a condition precedent to final acceptance of the PROJECT.

NOW THEREFORE, if the PRINCIPAL shall keep and maintain, subject to normal wear and tear, the construction, except for defects not occasioned by improper workmanship, materials, or failure to protect new work until it is accepted, and if the PRINCIPAL shall promptly repair, without notice from the CITY any and all defects arising from improper workmanship, materials, or failure to protect new work until it is accepted; all for a period of one (1) year from the date of the written final acceptance by the CITY, then this obligation shall be null and void. Otherwise, this obligation shall remain in full force and effect at all times.

Provided further, however, that upon neglect, failure or refusal of the PRINCIPAL to maintain or make any needed repairs upon the construction on the PROJECT, as set out in the preceding paragraph, within ten (10) days after the mailing of notice to the PRINCIPAL by letter deposited in the United States Post Office at Norman, Oklahoma, addressed to the PRINCIPAL at the address set forth below, then the PRINCIPAL and SURETY shall jointly and severally be liable to the CITY for the cost and expense for making such repair, or otherwise maintaining the said construction.

If is further expressly agreed and understood by the parties hereto that no changes or alterations in said CONTRACT and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

IN WITNESS WHEREOF, the said PRINCIPAL has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the day _____of _____, 20__, and the SURETY has caused these presents to be executed in its name its corporate seal to be hereunto affixed by its authorized representative(s) on the day of _____, 20___.

(Corporate Seal) (where applicable)

Diversified Construction of Oklahoma, Inc.
Principal

ATTEST:

Signed: _____
Authorized Representative

_____
Corporate Secretary (where applicable)

V.P.
Title

Address: 3609 VALLEY CR RD EDMOND OK
Telephone: 405-202-6000

(Corporate Seal) (where applicable)

The Ohio Casualty Insurance Company
Surety

ATTEST:

Signed: Lindsey Brown
Authorized Representative

_____
Corporate Secretary (where applicable)

Lindsey Brown Attorney-In-Fact
Title

Address: 121 E. Main, Jenks, OK 74037
Telephone: 918-299-2345

## CORPORATE ACKNOWLEDGMENT

STATE OF OKLAHOMA _____)
COUNTY OF OKLAHOMA _____)

The foregoing instrument was acknowledged before me this 14 day of Dec., 2009, by MARK K LATHAM V.P. (Name & Title) of DIVERSIFIED CONST. OF OKLA., a OKLA. corporation, on behalf of the corporation.

WITNESS my hand and seal this 14th day of December, 2009.

Kenneth Ferchau
Notary Public

My Commission Expires: 12-29-2009

KENNETH FERCHAU NOTARY # 06000131 EXP. 12/29/09 PUBLIC STATE OF OKLAHOMA

## INDIVIDUAL ACKNOWLEDGMENT

STATE OF OKLAHOMA_____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____day of _____, 20__, by _____ of _____, (Name and Title) of _____.

WITNESS my hand and seal this ____day of _____, 20___.

_____
Notary Public

My Commission Expires: _____

## PARTNERSHIP ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this ____day of _____, 20__, by _____ partner (agent) on behalf of _____, a partnership.

WITNESS my hand and seal this ____day of _____, 20___.

_____
Notary Public

My Commission Expires: _____

**CITY OF NORMAN**

Approved as to form and legality this 15 day of December, 2009

_____
City Attorney

Approved by the CITY OF NORMAN this____ day of _____, 20___.

ATTEST:

_____
City Clerk

_____
Mayor

# Resolution

R-0910-80

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING AND APPOINTING DIVERSIFIED CONSTRUCTION OF OKLAHOMA, INC., AS PROJECT AGENT FOR THE FIRE STATION NO. EIGHT CONSTRUCTION PROJECT

§ 1. WHEREAS, the City of Norman, Oklahoma, does hereby acknowledge that the tax-exempt status of this political subdivision is a significant factor in determining the agreed contract price bid by Diversified Construction of Oklahoma, Inc., for the Fire Station No. Eight Construction Project; and

§ 2. WHEREAS, the City of Norman, Oklahoma, in compliance with State law, desires to confer on Diversified Construction of Oklahoma its special State and Federal sales tax exemptions and in order to achieve such end, finds it necessary to appoint as its direct purchasing agent, Diversified Construction of Oklahoma, Inc., to purchase materials which are in fact used for the Fire Station No. Eight Construction Project; and

§ 3. WHEREAS, this limited agent status is conferred with the express understanding that Diversified Construction of Oklahoma, Inc., shall appoint employees and subcontractors as subagents who shall be authorized to make purchases on their behalf.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 4. That the City of Norman, Oklahoma, on the 22nd day of December, 2009, did Diversified Construction of Oklahoma, Inc., who is involved with the Fire Station No. Eight Construction Project, an agent of the City of Norman, Oklahoma, solely for the purpose of purchasing, on a tax-exempt basis, materials and tangible personal property to be used exclusively for the Fire Station No. Eight Construction Project.

PASSED AND ADOPTED THIS 22nd day of December, 2009.

_____
Mayor

ATTEST:

_____
City Clerk

RECREATION EDUCATION RESEARCH HEALTH INDUSTRY
THE CITY OF NORMAN OKLAHOMA
LAKE THUNDERBIRD

PURCHASE REQUISITION NBR: 0000165927

STATUS: PRE-AUDIT APPROVAL
REASON: CAPITAL PROJECT

REQUISITION BY: DSMITH

DATE: 12/17/09

SHIP TO LOCATION: FIRE DEPARTMENT ADM

SUGGESTED VENDOR: DIVERSIFIED CONSTRUCTION OF OK

DELIVER BY DATE: 6/30/10

| LINE NBR | DESCRIPTION | QUANTITY | UOM | UNIT COST | EXTEND COST | VENDOR PART NUMBER |
|---|---|---|---|---|---|---|
| 1 | CONSTRUCTION OF FIRE STATION 8<br>AS PER BID #0910-34 - CONTINGENT UPON COUNCIL<br>APPROVAL 12/22/09<br>COMMODITY: CONSTRUCTION SERVICES, GE<br>SUBCOMMOD: CONSTRUCTION, FIRE PROTEC | 1.00 | EA | 2064000.0000 | 2064000.00 | |

REQUISITION TOTAL: 2064000.00

A C C O U N T  I N F O R M A T I O N

| LINE # | ACCOUNT | | PROJECT | % | AMOUNT |
|---|---|---|---|---|---|
| 1 | 05093774196101 | Capital Projects Construction | FT0002<br>Fire Station #8 Westside | 100.00 | 2064000.00 |
| | | | | | 2064000.00 |

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

FUNDING TO BE APPROPRIATED BY COUNCIL IF
APPROVED ON 12/22/09
-
W-9 TO BE OBTAINED

9. ITEM: CONSIDERATION OF BID NO. 0910-35 AND APPROVAL OF THE FOLLOWING CONTRACTS FOR DISASTER DEBRIS CLEARANCE AND REMOVAL SERVICES:

CONTRACT NO. K-0910-123: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND T.F.R. ENTERPRISES, INC.

CONTRACT NO. K-0910-124: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND JIMMY CROWDER EXCAVATING AND LAND CLEARING, INC., D/B/A CROWDER DISASTER RECOVERY.

CONTRACT NO. K-0910-125: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND DRC EMERGENCY SERVICES, L.L.C.

INFORMATION: Staff has examined the bids and contracts and found them to be in order and proper as to form. Staff recommends acceptance of the bids, the subsequent awarding of the bids as indicated, and approval of the contracts. Copies of an advisory memorandum; bid tabulation; and contracts are included in the Agenda Book.

ACTION NEEDED 1. Motion to accept or reject all bids meeting specifications; and, if accepted, award the bid to T.F.R. Enterprises, Inc., Jimmy Crowder Excavating and Land Clearing, Inc., d/b/a Crowder Disaster Recovery, and DRC Emergency Services, L.L.C., as the lowest and best bidders meeting specifications.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to approve or reject Contract No. K-0910-123 with T.F.R. Enterprises, Inc.; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 3. Motion to approve or reject Contract No. K-0910-124 with Jimmy Crowder Excavating and Land Clearing, Inc., d/b/a Crowder Disaster Recovery; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 4. Motion to approve or reject Contract No. K-0910-125 with DRC Emergency Services, L.L.C.; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

office memorandum

**DATE:** December 1, 2009

**TO:** Honorable Mayor and Councilmembers

**FROM:** Bob Hanger, City Engineer

**SUBJECT:** Agenda Item – 1. Award of Bid No. 0910-35 for the Disaster Debris Clearance and Removal Services

2. Approval of Contract Nos. K-0910-123 with T.F.R. Enterprises, K-0910-124 with Crowder Disaster Recovery and K-0910-125 with DRC Emergency Services

**BACKGROUND:**

Natural disasters commonly occur in Oklahoma including wind storms, ice storms, flooding and tornados. Each event has its own unique debris clean up requirements. When faced with natural disasters, planning is the key to preparedness. A Debris Management Plan ensures a quicker and more thorough and calculated response to a disaster. It also establishes a strategic framework for providing debris removal assistance in support of a Presidential-declared emergency or major disaster and helps qualify a city for additional Federal Emergency Management Agency (FEMA) dollars, in some cases. This additional assistance is explained in sections 403 (Essential Assistance) and 407 (Debris Removal) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereafter, the Stafford Act), 42 U.S.C. 5121-5206, and implementing regulations at 44 CFR Part 206.

It became apparent after the December 2007 ice storm that the City of Norman should have a Debris Management Plan. Also, FEMA will increase their reimbursement from 75% to 80% for those governmental agencies that have an approved Debris Management Plan in place before a disaster strikes. If a plan had been in place before the December 2007 ice storm, the City would have received an additional $300,000 reimbursement.

On November 25, 2008, City Council approved Contract No. K-0809-101 with Beck Disaster Recovery, Inc. (BDR) in the amount of $64,949 to prepare the City's first ever Debris Management Plan. On September 8, 2009, City Council approved the plan.

**DISCUSSION:**

The Debris Management Plan recommended that the City have a pre-positioned agreement with 3-5 debris removal companies. This is a FEMA requirement to receive the additional 5% of federal funding. This is a stand-by agreement with no associated value. The agreement will not have value until a "Notice to Proceed," is issued by the Mayor of the City of Norman, for an amount based on the estimated quantities of a specific disaster. The City of Norman will be prepared for the next disaster by having the executed agreements in place and will be able to start debris removal more quickly.

Bid Documents and Specifications were advertised according to State law. On November 12, 2009, fourteen (14) bids were received for "Disaster Debris Clearance and Removal Services." The three (3) lowest qualified bidders are listed below:

1. T.F.R. Enterprises, Leander, TX . . . . . $7,604,080.20
2. Crowder Disaster Recovery, Tallahassee, FL . . .$8,110,525.28
3. DRC Emergency Services, Mobile, AL. . . . . .$8,623,808.52

The three lowest bidders are well known national companies recommended by our consultant Beck Disaster Recovery (BDR). The Finance Director reviewed each of their financial statements (resources and bond rating) and determined they are financially stable companies.

Tag Grinding Services, Inc. also submitted a bid in the amount of $7,550,096. However, their bid was rejected because they did not meet one of the bid requirements. They did not submit three (3) references from existing or past clients indicating they removed at least 250,000 cubic yards of debris over the last five (5) years. In addition, due to a mathematical error in their bid the corrected bid was actually $7,966,796, which made them the second low bid. The City Attorney's office was consulted on this matter and recommended rejection of this bid.

The bid quantities listed in the bid schedule were approximately the same as the final quantities of the December 2007 ice storm. Some additional bid items were added which would be associated with a tornado event such as removal of white goods and abandoned vehicle removal. A bid item for drainage channel debris removal was also added. Shown below is a table which compares the unit prices of the four most costly items of work. These items accounted for 97% of the total cost of the December 2007 ice storm.

## "Unit Price Cost Comparison Table"

| ITEM DESCRIPTION | UNIT PRICE | | | | |
|---|---|---|---|---|---|
| | Quantity | December 2007 Ice Storm | | Current Bid | |
| Debris Removal | 536,000 cy | $3.75/cy = | $2,010,000 | $4.20/cy = | $2,251,200 |
| Limb Removal per Tree | 23,250 trees | $45.00/tree = | $1,046,250 | $70.00/tree = | $1,627,500 |
| Grinding | 536,000 cy | $1.27/cy = | $680,720 | $1.10/cy = | $589,600 |
| Final Haul Out | 130,800 | $2.25/cy = | $294,300 | $3.80/cy = | $497,040 |
| | | Total = | $4,031,270 | Total = | $4,965,340 |

The current bids are higher than the previous 2007 bids for the following reasons:

1. According to BDR the bids received in December 2007 were the lowest they had seen. Many bidders had no work and their bids were very competitive.
2. Bidders submit bids based on the listed quantities. Normally, as quantities increase the unit price decreases. In this case, the quantities may decrease in the future based on the severity of the debris disaster. The higher prices reflect this possibility.

Staff recommends that the City enter into a pre-positioned agreement with each of the three (3) lowest qualified bidders. In the event of a disaster, staff will call the lowest bidder and if they cannot respond within the time frame listed in the agreement (see below), staff will call the

second low bidder to respond and so on. The contractor shall attend a Debris Management Kickoff Meeting, with the City Manager (City Debris Manager) and other City staff no later than 72 hours following the disaster (or at such time that it is safe to return to the city). The contractor shall mobilize at least 50% of the debris clearance fleet necessary for project completion within 72 hours of the Debris Management Kickoff meeting. One-hundred percent of the fleet necessary for project completion shall be present within seven (7) working days following the issuance of a Notice to Proceed from the City. The selected contractor will be required to post a Performance and Payment Bond in the amount of 100% of the estimated contract price within 10 days after the issuance of the Notice to Proceed by the City. The City reserves the right to adjust the estimated contract price at the time of the event based on the size, severity and type of debris generating event. The bond shall continue throughout the contract execution period when the City Manager issues a Notice to Proceed, until such time as the scope of work contained in the contract is completed as determined by the City Manager.

The pre-positioned agreements will be for a period of three (3) years with the option to extend the contract for two (2) additional one-year periods upon mutual agreement of both parties. If agreement renewal is agreed upon by both the City and the contractor, price adjustments for set rates will not exceed the average of the Construction Cost Index (CCI) during the 12-months prior to renewal or 5%, whichever is less. Bid prices are locked in for a 3-year period. All work set forth in the scope of work must be approved by personnel authorized by the City Manager.

Another important consideration is monitoring the debris removal contractor, which is required by FEMA. Currently the City is under contract with Beck Disaster Recovery, Inc, (BDR) until December, 2010. This contract can be renewed for two additional one-year periods. BDR performed very well during the December 2007 ice storm. Listed below is work typically performed by a monitoring company:

1. Determines and certifies the capacity of all trucks used by the debris removal contractor.
2. Monitors the activity of the debris removal contractor's work crews along city right-of-way.
3. Per the contract, uses a global positioning system to locate each tree that has limbs removed. During the December 2007 ice storm over 22,000 trees were located. This activity is required by FEMA.
4. Estimates the amount of debris in each truck arriving at the debris management site. Over 13,000 truck loads of debris were received after the December 2007 ice storm.
5. Deals with citizen complaints.
6. Keeps detailed records in anticipation of FEMA audits.

**RECOMMENDATION NO. 1:**

Staff recommends that Bid No. 0910-35 for the Disaster Debris Clearance and Removal Services be awarded to the three (3) lowest bidders listed below:

1. T.F.R. Enterprises
2. Crowder Disaster Recovery
3. DRC Emergency Services

**RECOMMENDATION NO. 2:**

Staff further recommends that upon approval of Bid No. 0910-35, the following contracts be approved.

| Contractor Name | Contract No. |
|---|---|
| | |
| T.F.R. Enterprises | K-0910-123 |
| Crowder Disaster Recovery | K-0910-124 |
| DRC Emergency Services | K-0910-125 |

BH/tf
Enclosures

Reviewed by: Shawn O'Leary, Director of Public Works
Clint Mercer, Chief Accountant BY AF
Anthony Francisco, Director of Finance
Jeff Bryant, City Attorney
Steve Lewis, City Manager

CITY OF NORMAN
TABULATION OF BIDS

DISASTER DEBRIS CLEARANCE AND REMOVAL SERVICES

Bid No. 0910-35
November 12, 2009

The following is a tabulation of bids received by the City of Norman for the Disaster Debris Clearance and Removal Services.

| BIDDER | BID PRICE |
|---|---|
| 1. T.F.R. Enterprises | $7,604,080.20 |
| 2. Tag Grinding Services, Inc. | $7,966,796.00 |
| 3. Crowder Disaster Recovery | $8,110,525.28 |
| 4. DRC Emergency Services | $8,623,808.52 |
| 5. D&J Enterprises | $9,842,225.00 |
| 6. Ceres Environmental | $10,138,650.14 |
| 7. Arbor Masters | $10,914,923.00 |
| 8. SRS | $11,169,737.78 |
| 9. Crowder Gulf | $11,575,065.00 |
| 10. Ash-Britt | $11,617,787.50 |
| 11. Omni Pinnacle | $12,257,326.18 |
| 12. Asplundh Environmental | $14,821,182.20 |
| 13. Unified Recovery Group | $15,150,091.82 |
| 14. Huffman Construction | Unknown |

RECOMMENDATION:

Staff recommends that Bid No. 0910-35 bid for the Disaster Debris Clearance and Removal Services be awarded to the three (3) lowest bidders.

Forwarded by:

Bob Hanger

Bob Hanger, P.E., CFM
City Engineer

# Pre-Position Agreement for Disaster Debris Management

This AGREEMENT is between City of Norman, Oklahoma, a municipal corporation (hereinafter referred to as CITY) and T.F.R. ENTERPRISES (hereinafter referred to as CONTRACTOR).

WITNESSETH:

For the purpose and subject to the terms and conditions hereinafter set forth, the CITY hereby contracts for certain services, and CONTRACTOR is prepared to provide such services as are agreed to in this document.

The parties agree as follows:

ARTICLE 1 – EFFECTIVE DATE.

The effective date of this AGREEMENT shall be _____. 2009. The Agreement shall remain in effect for a three (3) year period, with the option to extend the AGREEMENT for two additional one-year periods upon mutual agreement of the parties, unless otherwise terminated as provided herein. Activation of this agreement shall be based on a Notice to Proceed (NTP) issued by the Mayor of the City of Norman.

ARTICLE 2 – NATURE OF AGREEMENT.

It is agreed and understood between the parties hereto that this is a pre-positioned or "standby" AGREEMENT. As such, there is no value associated with this AGREEMENT and actual quantities will vary based on the applicable disaster type and scope.

ARTICLE 3 - SERVICES TO BE PERFORMED.

CONTRACTOR shall perform the services as stated in the Request for Bid of Contractual Services for Disaster Debris Clearance and Removal Services (the "Request for Bid") and the CONTRACTOR'S Response attached hereto and incorporated by reference as part of this AGREEMENT, and as may be specifically authorized by the CITY. Such authorizations will be referred to as Task Orders. Each Task Order will set forth a specific scope of services, rate/amount of compensation, estimated completion date, and other pertinent details of the task being authorized.

ARTICLE 4 – COMPENSATION

CITY shall pay CONTRACTOR in accordance with the Hourly Equipment and Labor Price Schedule and Unit Rate Price Schedule included with CONTRACTOR'S Response, which is attached hereto and incorporated by reference as part of this AGREEMENT.

CONTRACTOR may submit weekly or semi-monthly invoices for services rendered in accordance with the attached Request for Bid. Invoices must reference the Task Order number.

CONTRACTOR shall submit invoices on a regular basis and in no instance, for more than a thirty (30) day period. CONTRACTOR shall be paid within twenty (20) days of submitting a complete invoice. If there are any items in dispute, CONTRACTOR will be paid for those items not in dispute, and disputed items will be resolved within 45 days, and paid within 10 days of resolution. Disputed items must be submitted to CONTRACTOR within ten (10) days of the receipt of the invoices.

Payment of CONTRACTOR by CITY is not contingent upon the CITY being reimbursed by any Federal or State agency. Payment to CONTRACTOR will be made for any work directed by the CITY.

In order for both parties to this AGREEMENT to close their books and records, CONTRACTOR will clearly state "Final Invoice" on CONTRACTOR'S final/last billing to the CITY.

ARTICLE 5- INSURANCE

CONTRACTOR shall maintain insurance limits in accordance with the Request for Bid. CONTRACTOR shall provide CITY six (6) original Certificates of Insurance evidencing such coverage prior to execution of this Agreement and again within twenty-four hours of receiving a Notice to Proceed under this Agreement.

ARTICLE 6 – SURVIVAL

Upon completion of all services, obligations and duties provided for in this AGREEMENT, or in the event of termination of this AGREEMENT for any reason, the terms and conditions of this AGREEMENT shall survive.

ARTICLE 7 – INDEMNIFICATION

CONTRACTOR shall defend, indemnify, and save harmless the CITY, its officers, agents and employees from and against all claims, damages, losses, and expenses including attorney fees arising out of or resulting from the performance of the work, caused by any act or omission of CONTRACTOR, any subcontractor, and anyone for whose acts any of them may be liable.

ARTICLE 8 – RELATIONSHIP OF PARTIES.

The CONTRACTOR shall operate as an independent contractor, and the CITY shall not be responsible for any of the CONTRACTOR'S acts or omissions. The CONTRACTOR shall not be treated as an employee with respect to the services performed hereunder for Federal or State tax, unemployment, or workers' compensation purposes. The CONTRACTOR understands that neither federal, nor state, no payroll tax of any kind shall be withheld or paid by the CITY on behalf of the CONTRACTOR or the employees of the CONTRACTOR. The CONTRACTOR further agrees that the CONTRACTOR is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The CONTRACTOR shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participating in, any employee pension, health, or other fringe benefit plan of

the CITY. The CITY shall not be liable to the CONTRACTOR for any expenses paid or incurred by the CONTRACTOR unless otherwise agreed in writing. The CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and supplies required to provide the contracted services unless otherwise agreed in writing. The CONTRACTOR shall comply with all federal, state, and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement. The CONTRACTOR shall insure that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized under state and local law to perform the services under this Agreement.

ARTICLE 9 – CITY'S RESPONSIBILITIES

CITY shall be responsible for providing access to all project sites, and providing information required by CONTRACTOR that is available in the files of the CITY to assist CONTRACTOR in completing any assigned tasks. CITY is responsible for assisting in obtaining any permits for CONTRACTOR to complete any Task Order assigned.

ARTICLE 10 – TERMINATION OF AGREEMENT

This AGREEMENT may be terminated in accordance with the terms set forth in the Request for Bid and fully incorporated by reference herein.

ARTICLE 11 – NON-DISCRIMINATION

CONTRACTOR shall treat all of its employees equally without regard to race, color, religion, gender, age or national origin.

ARTICLE 12 – SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of the AGREEMENT, or the occurrence of any event rendering any portion or provision of this AGREEMENT void, shall in no way affect the validity or enforceability of any other portion or provision of the AGREEMENT. Any void provision shall be deemed severed from the AGREEMENT and the balance of the AGREEMENT shall be construed and enforced as if the AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to reform the AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire AGREEMENT from being void should a provision which is of the essence of the AGREEMENT be determined to be void.

ARTICLE 13 - ENTIRETY OF AGREEMENT

The CITY and CONTRACTOR agree that this AGREEMENT, including the Request for Bid and CONTRACTOR's response to said request incorporated by reference and attached hereto, sets forth the entire AGREEMENT between the parties, and that there are no promises or understandings other than those state herein. This AGREEMENT supersedes all prior contracts, representations, negotiations, letters or other communications between the CITY and

CONTRACTOR pertaining to the services, whether written or oral. None of the provisions, terms and conditions contained in this AGREEMENT may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

ARTICLE 14 – MODIFICATION

The AGREEMENT may be modified in writing by Amendment executed by both CITY and CONTRACTOR.

ARTICLE 15 – SUCCESSORS AND ASSIGNS

CITY and CONTRACTOR bind themselves and their partners, successors, assigns and legal representatives to this AGREEMENT. CONTRACTOR shall not assign this AGREEMENT without the express written approval of the CITY.

ARTICLE 16 – NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As To CITY

CITY OF NORMAN, OKLAHOMA
P.O. Box 370
Norman, Oklahoma 73070
(Attn: Bob Hanger)

As To CONTRACTOR

Tiffany Wilkes
TFR Enterprises, Inc.
601 Leander Dr.
Leander, TX. 78641

ARTICLE 17 – GOVERNING LAW.

The parties agree that this Agreement shall be governed by the laws of the State of Oklahoma.

ARTICLE 18 – BOND

Upon issuance of a Notice to Proceed or Task Order, CONTRACTOR will provide such bonds as described in the Request for Bid attached hereto.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this AGREEMENT.

DATED this _____ day of _____, 200_.

**CITY OF NORMAN, OKLAHOMA**

By: _____

Mayor Cindy Rosenthal

ATTEST:

By: _____

Brenda Hall, City Clerk

Approved as to form and legality this _____ day of _____, 2009.

_____
City Attorney's Office

**CONTRACTOR**

By: _____

Name: Tipton F. Rowland

Title: President

ATTEST:

By: Tiffany Wilkes

Title: Contract Administrator

**PROPOSER'S BID CERTIFICATION FORM**

To Whom It May Concern:

I have carefully examined the Request for Bid and any other documents accompanying or make a part of this Request for Bid.

I hereby propose to perform the following prices as specified in this Request for Bid No. 0000-00 at the rates described on **SCHEDULE 1 – HOURLY EQUIPMENT AND LABOR PRICE SCHEDULE and SCHEDULE 2 – UNIT RATE PRICE SCHEDULE.** I understand that all debris quantities listed in "SCHEDULE 2 – UNIT RATE PROCE SCHEDULE" are estimates only and actual totals will be based on post event analysis.

I certify that all information contained in this Bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this Bid on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

I further certify, under oath, that this Bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a Bid for the same product or service; no officer employee or agent of the City of Norman or any other proposer is interested in said Bid; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

It is distinctly understood that the Board of City Commissioners reserves the right to reject any or all Bids.

TFR Enterprises, Inc.
NAME OF FIRM

AUTHORIZED SIGNATURE

Tipton F. Rowland, President
NAME & TITLE, TYPED OR PRINTED

601 Leander Drive
MAILING ADDRESS

Leander, Tx. 78641
City, STATE, ZIP CODE

Federal Tax ID: 72-1149862
Phone: (512) 260-3322
Fax: (512) 528-1942
Email: tiffanyw@tfrinc.com

Subscribed and sworn to before me this 11th day of November, 2009

Notary Public Tiffany Wilkes
My Commission expires: January 27, 2010

(SEAL)

TIFFANY WILKES
Notary Public, State of Texas
My Commission Expires
JANUARY 27, 2010

## SCHEDULE 1 – HOURLY EQUIPMENT AND LABOR PRICE SCHEDULE

| **Equipment Type** – Ref. to Section No. 24.1 of RFB | **Hourly Equipment Rate** |
|---|---|
| Bobcat Loader | $ 70.00 |
| Bucket Truck w/Operator | 150.00 |
| Crash Truck w/Impact Attenuator | 135.00 |
| Dozer, Tracked, D5 or similar | 95.00 |
| Dozer, Tracked, D6 or similar | 125.00 |
| Dozer, Tracked, D7 or similar | 175.00 |
| Dozer, Tracked, D8 or similar | 250.00 |
| Dump Truck, 18 CY-20 CY | 70.00 |
| Dump Truck, 21 CY-30 CY | 80.00 |
| Generator and Lighting | 15.00 |
| Grader w/12' Blade | 145.00 |
| Hydraulic Excavator, 1.5 CY | 165.00 |
| Hydraulic Excavator, 2.5 CY | 185.00 |
| Knuckleboom Loader | 145.00 |
| Lowboy Trailer w/Tractor | 125.00 |
| Mobile Crane (Adequate for hanging limbs/leaning trees) | 170.00 |
| Pickup Truck, .5 Ton | 15.00 |
| Truck, Flatbed | 65.00 |
| Water Truck | 65.00 |
| Wheel Loader, 2.5 CY, 950 or similar | 110.00 |
| Wheel Loader, 3.5 – 4.0 CY, 966 or similar | 125.00 |
| Wheel Loader, 4.5 CY, 980 or similar | 140.00 |
| Wheel Loader-Backhoe, 1.0 – 1.5 CY | 85.00 |
| Other – Please List | |

| **Labor Category** | **Hourly Labor Rate** |
|---|---|
| Operations Manager w/Cell Phone and Pickup | 70.00 |
| Crew Foreman w/Cell Phone and Pickup | 59.00 |
| Tree Climber/Chainsaw | 65.00 |
| Laborer w/Chain Saw | 47.00 |
| Laborer w/small tools, traffic control, or flagperson | 29.00 |

| SCHEDULE 2 - UNIT RATE PRICE SCHEDULE<br>Reference to Section 24 of RFB | | | |
|---|---|---|---|
| **25.2 ROW Vegetative Debris Removal (Collect & Haul)**<br>Work consists of collection and transport of vegetative debris on the ROW to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.20 | 536,000 | 2,251,200.00 |
| **25.3 ROW C&D Debris Removal (Collect & Haul)**<br>Work consists of collection and transport of C&D debris on the ROW to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.80 | 80,000 | 384,000.00 |
| **25.4 Private Property Vegetative Debris Removal**<br>Work consists of collection and transport of vegetative debris on the private property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.20 | 60,606 | 254,545.20 |
| **25.5 Private Property C&D Debris Removal**<br>Work consists of collection and transport of C&D debris on private property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.80 | 37,600 | 180,480.00 |
| **25.6 City Parks and Other City Property Vegetative Debris Removal**<br>Work consists of collection and transport of vegetative debris in City parks or other City property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.20 | 100,000 | 420,000.00 |
| **25.7 Removal of Hazardous Leaning Trees and Hanging Limbs in City Parks and Other City Property**<br>Work consists of removing hazardous leaning trees or hanging limbs from City parks or other City property. | $ Per Tree | Estimated Tree Total | Total |
| 6 inch to 11.99 inch diameter | 75.00 | 300 | 22,500.00 |
| 12 inch to 23.99 inch diameter | 85.00 | 200 | 17,000.00 |
| 24 inch to 35.99 inch diameter | 165.00 | 100 | 16,500.00 |
| 36 inch to 47.99 inch diameter | 195.00 | 20 | 3,900.00 |
| 48 inch and larger diameter | 285.00 | 10 | 2,850.00 |
| | $ Per Tree | Estimated Tree Total | Total |
| Hangers greater than two (2') inches in diameter | 70.00 | 2,660 | 186,200.00 |
| **25.8 Removal of Hazardous Stumps from City Parks and Other Public Property**<br>Work consists of removing hazardous stumps and placing them on the ground for haul-off. | $ Per Unit | Estimated Units | Total |
| 24 inch to 35.99 inch diameter | 145.00 | 50 | 7,250.00 |
| 36 inch to 47.99 inch diameter | 245.00 | 30 | 7,350.00 |
| 48 inch and larger diameter | 385.00 | 10 | 3,850.00 |
| **25.9 DMS Management and Operation**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary to manage and operate a DMS on an inbound debris basis. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 1.10 | 536,000 | 589,600.00 |
| **25.10 Chipping (Reduction of Storm Generated Debris)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary to reduce storm generated debris by chipping. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | .90 | 653,600 | 588,240.00 |
| **25.11 Haul-out of Reduced Debris to Final Disposal Site**<br>Work consists of collection and transport of reduced debris from a DMS to a City approved final disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 3.80 | 130,800 | 497,040.00 |

| | | | |
|---|---|---|---|
| **25.12 Removal of ROW Hazardous Leaning Trees and Hanging Limbs**<br>Work consists of removing hazardous leaning trees or hanging limbs and placing them on the ROW for haul-off. | $ Per Tree | Estimated Tree Total | Total |
| 6 inch to 11.99 inch diameter | 75.00 | 500 | 37,500.00 |
| 12 inch to 23.99 inch diameter | 85.00 | 300 | 25,500.00 |
| 24 inch to 35.99 inch diameter | 165.00 | 200 | 33,000.00 |
| 36 inch to 47.99 inch diameter | 195.00 | 10 | 1,950.00 |
| 48 inch and larger diameter | 285.00 | 5 | 1,425.00 |
| | $ Per Tree | Estimated Tree Total | Total |
| Hangers greater than two (2') inches in diameter | 70.00 | 23,250 | 1,627,500.00 |
| **25.13 Removal of Hazardous Stumps from City ROW**<br>Work consists of removing hazardous stumps and placing them on the ROW for haul-off. | $ Per Unit | Estimated Units | Total |
| 24 inch to 35.99 inch diameter | 145.00 | 50 | 7,250.00 |
| 36 inch to 47.99 inch diameter | 245.00 | 30 | 7,350.00 |
| 48 inch and larger diameter | 385.00 | 10 | 3,850.00 |
| **25.14 Household Hazardous Waste Removal Transport and Disposal**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of HHW. | $ Per Pound | Estimated Pounds | Total |
| | 2.75 | 100,000 | 275,000.00 |
| **25.15 Canals and Waterways Debris Removal (Collect & Haul)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of debris from City canals and waterways. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 11.90 | 5,000 | 59,500.00 |
| **25.16 Abandoned Vehicle Removal**<br>Work consists of the removal of abandoned vehicles in areas identified and approved by the City and subsequently transported to a City approved staging area. | $ Per Unit | Estimated Units | Total |
| | 125.00 | 100 | 12,500.00 |
| **25.17 Animal Carcass Removal and Disposal**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of Animal Carcasses. | $ Per Pound | Estimated Pounds | Total |
| | 8.00 | 1000 | 8,000.00 |
| **25.18 ROW White Goods Debris Removal (Collect & Haul)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of White Goods. | $ Per Unit | Estimated Units | Total |
| | 45.00 | 1000 | 45,000.00 |
| **25.19 Freon Removal**<br>Work Consists of the recovery and disposal of refrigerants from items containing Freon. | $ Per Unit | Estimated Units | Total |
| | 35.00 | 750 | 26,250.00 |
| **Total Estimated Contract Price** | | $ | 7,604,080.20 |

**Cradle to grave pricing for vegetative, stump and tree removal and disposal are encouraged and may be included by the Contractor for consideration by the City. If alternative pricing is included, the Contractor must specify which unit rate scope items are included. All estimates are derived using the Norman, Oklahoma Disaster Debris Management Plan. Estimates are calculated using a moderate disaster model and should not be considered actual totals. It is assumed that all portions of the above rate schedule may be necessary during debris removal and clearance operations.

* please see attached additional pricing.

# Pre-Position Agreement for Disaster Debris Management

This AGREEMENT is between City of Norman, Oklahoma, a municipal corporation (hereinafter referred to as CITY) and CROWDER DISASTER RECOVERY, (hereinafter referred to as CONTRACTOR).

WITNESSETH:

For the purpose and subject to the terms and conditions hereinafter set forth, the CITY hereby contracts for certain services, and CONTRACTOR is prepared to provide such services as are agreed to in this document.

The parties agree as follows:

ARTICLE 1 – EFFECTIVE DATE.

The effective date of this AGREEMENT shall be _____, 2009. The Agreement shall remain in effect for a three (3) year period, with the option to extend the AGREEMENT for two additional one-year periods upon mutual agreement of the parties, unless otherwise terminated as provided herein. Activation of this agreement shall be based on a Notice to Proceed (NTP) issued by the Mayor of the City of Norman.

ARTICLE 2 – NATURE OF AGREEMENT.

It is agreed and understood between the parties hereto that this is a pre-positioned or "standby" AGREEMENT. As such, there is no value associated with this AGREEMENT and actual quantities will vary based on the applicable disaster type and scope.

ARTICLE 3 - SERVICES TO BE PERFORMED.

CONTRACTOR shall perform the services as stated in the Request for Bid of Contractual Services for Disaster Debris Clearance and Removal Services (the "Request for Bid") and the CONTRACTOR'S Response attached hereto and incorporated by reference as part of this AGREEMENT, and as may be specifically authorized by the CITY. Such authorizations will be referred to as Task Orders. Each Task Order will set forth a specific scope of services, rate/amount of compensation, estimated completion date, and other pertinent details of the task being authorized.

ARTICLE 4 – COMPENSATION

CITY shall pay CONTRACTOR in accordance with the Hourly Equipment and Labor Price Schedule and Unit Rate Price Schedule included with CONTRACTOR'S Response, which is attached hereto and incorporated by reference as part of this AGREEMENT.

CONTRACTOR may submit weekly or semi-monthly invoices for services rendered in accordance with the attached Request for Bid. Invoices must reference the Task Order number. CONTRACTOR shall submit invoices on a regular basis and in no instance, for more than a thirty (30) day period. CONTRACTOR shall be paid within twenty (20) days of submitting a complete invoice. If there are any items in dispute, CONTRACTOR will be paid for those items not in dispute, and disputed items will be resolved within 45 days, and paid within 10 days of resolution. Disputed items must be submitted to CONTRACTOR within ten (10) days of the receipt of the invoices.

Payment of CONTRACTOR by CITY is not contingent upon the CITY being reimbursed by any Federal or State agency. Payment to CONTRACTOR will be made for any work directed by the CITY.

In order for both parties to this AGREEMENT to close their books and records, CONTRACTOR will clearly state "Final Invoice" on CONTRACTOR'S final/last billing to the CITY.

ARTICLE 5- INSURANCE

CONTRACTOR shall maintain insurance limits in accordance with the Request for Bid. CONTRACTOR shall provide CITY six (6) original Certificates of Insurance evidencing such coverage prior to execution of this Agreement and again within twenty-four hours of receiving a Notice to Proceed under this Agreement.

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ARTICLE 7 – INDEMNIFICATION

CONTRACTOR shall defend, indemnify, and save harmless the CITY, its officers, agents and employees from and against all claims, damages, losses, and expenses including attorney fees arising out of or resulting from the performance of the work, caused by any act or omission of CONTRACTOR, any subcontractor, and anyone for whose acts any of them may be liable.

ARTICLE 8 – RELATIONSHIP OF PARTIES.

The CONTRACTOR shall operate as an independent contractor, and the CITY shall not be responsible for any of the CONTRACTOR'S acts or omissions. The CONTRACTOR shall not be treated as an employee with respect to the services performed hereunder for Federal or State tax, unemployment, or workers' compensation purposes. The CONTRACTOR understands that neither federal, nor state, no payroll tax of any kind shall be withheld or paid by the CITY on behalf of the CONTRACTOR or the employees of the CONTRACTOR. The CONTRACTOR further agrees that the CONTRACTOR is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The CONTRACTOR shall not be

treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participating in, any employee pension, health, or other fringe benefit plan of the CITY. The CITY shall not be liable to the CONTRACTOR for any expenses paid or incurred by the CONTRACTOR unless otherwise agreed in writing. The CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and supplies required to provide the contracted services unless otherwise agreed in writing. The CONTRACTOR shall comply with all federal, state, and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement. The CONTRACTOR shall insure that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized under state and local law to perform the services under this Agreement.

ARTICLE 9 – CITY'S RESPONSIBILITIES

CITY shall be responsible for providing access to all project sites, and providing information required by CONTRACTOR that is available in the files of the CITY to assist CONTRACTOR in completing any assigned tasks. CITY is responsible for assisting in obtaining any permits for CONTRACTOR to complete any Task Order assigned.

ARTICLE 10 – TERMINATION OF AGREEMENT

This AGREEMENT may be terminated in accordance with the terms set forth in the Request for Bid and fully incorporated by reference herein.

ARTICLE 11 – NON-DISCRIMINATION

CONTRACTOR shall treat all of its employees equally without regard to race, color, religion, gender, age or national origin.

ARTICLE 12 – SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of the AGREEMENT, or the occurrence of any event rendering any portion or provision of this AGREEMENT void, shall in no way affect the validity or enforceability of any other portion or provision of the AGREEMENT. Any void provision shall be deemed severed from the AGREEMENT and the balance of the AGREEMENT shall be construed and enforced as if the AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to reform the AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire AGREEMENT from being void should a provision which is of the essence of the AGREEMENT be determined to be void.

ARTICLE 13 - ENTIRETY OF AGREEMENT

The CITY and CONTRACTOR agree that this AGREEMENT, including the Request for Bid and CONTRACTOR's response to said request incorporated by reference and attached hereto, sets forth the entire AGREEMENT between the parties, and that there are no promises or

understandings other than those state herein. This AGREEMENT supersedes all prior contracts, representations, negotiations, letters or other communications between the CITY and CONTRACTOR pertaining to the services, whether written or oral. None of the provisions, terms and conditions contained in this AGREEMENT may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

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The AGREEMENT may be modified in writing by Amendment executed by both CITY and CONTRACTOR.

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CITY and CONTRACTOR bind themselves and their partners, successors, assigns and legal representatives to this AGREEMENT. CONTRACTOR shall not assign this AGREEMENT without the express written approval of the CITY.

ARTICLE 16 – NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

| | |
|---|---|
| As To CITY | CITY OF NORMAN, OKLAHOMA<br>P.O. Box 370<br>Norman, Oklahoma 73070<br>(Attn: Bob Hanger) |
| As To CONTRACTOR | Jimmie Crowder Excavating and Land Clearing, Inc. d/b/a Crowder Disaster Recovery<br>901 Geddie Road<br>Tallahassee FL 32304 |

ARTICLE 17 – GOVERNING LAW.

The parties agree that this Agreement shall be governed by the laws of the State of Oklahoma.

ARTICLE 18 – BOND

Upon issuance of a Notice to Proceed or Task Order, CONTRACTOR will provide such bonds as described in the Request for Bid attached hereto.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this AGREEMENT.

DATED this _____ day of _____, 200_.

**CITY OF NORMAN, OKLAHOMA**

By: _____

Mayor Cindy Rosenthal

ATTEST:

By: _____

Brenda Hall, City Clerk

Approved as to form and legality this _____ day of _____, 2009.

_____

City Attorney's Office

**CONTRACTOR**

By: _____

Name: JASON CROWDER

Title: V.P.

ATTEST:

By: _____

Title: _____

**PROPOSER'S BID CERTIFICATION FORM**

To Whom It May Concern:

I have carefully examined the Request for Bid and any other documents accompanying or make a part of this Request for Bid.

I hereby propose to perform the following prices as specified in this Request for Bid No. 0000-00 at the rates described on **SCHEDULE 1 – HOURLY EQUIPMENT AND LABOR PRICE SCHEDULE and SCHEDULE 2 – UNIT RATE PRICE SCHEDULE.** I understand that all debris quantities listed in "SCHEDULE 2 – UNIT RATE PROCE SCHEDULE" are estimates only and actual totals will be based on post event analysis.

I certify that all information contained in this Bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this Bid on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

I further certify, under oath, that this Bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a Bid for the same product or service; no officer employee or agent of the City of Norman or any other proposer is interested in said Bid; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

It is distinctly understood that the Board of City Commissioners reserves the right to reject any or all Bids.

Jimmie Crowder Excavating and Land Clearing, Inc. d/b/a Crowder Disaster Recovery
NAME OF FIRM

AUTHORIZED SIGNATURE

Jason Crowder, Vice President
NAME & TITLE, TYPED OR PRINTED

901 Geddie Road
MAILING ADDRESS

Tallahassee, FL 32304
City, STATE, ZIP CODE

Federal Tax ID: 59-1058504

Phone: (850) 576-7176

Fax: (850) 576-1542

Email: jason@jimmiecrowder.com

Subscribed and sworn to before me this _____ day of_____, 2009

Notary Public_____

My Commission expires: _____

(SEAL)

## SCHEDULE 1 – HOURLY EQUIPMENT AND LABOR PRICE SCHEDULE

| **Equipment Type** – Ref. to Section No. 24.1 of RFB | **Hourly Equipment Rate** |
|---|---|
| Bobcat Loader | 70.00 |
| Bucket Truck w/Operator | 140.00 |
| Crash Truck w/Impact Attenuator | 100.00 |
| Dozer, Tracked, D5 or similar | 110.00 |
| Dozer, Tracked, D6 or similar | 140.00 |
| Dozer, Tracked, D7 or similar | 165.00 |
| Dozer, Tracked, D8 or similar | 190.00 |
| Dump Truck, 18 CY-20 CY | 65.00 |
| Dump Truck, 21 CY-30 CY | 75.00 |
| Generator and Lighting | 30.00 |
| Grader w/12' Blade | 110.00 |
| Hydraulic Excavator, 1.5 CY | 140.00 |
| Hydraulic Excavator, 2.5 CY | 160.00 |
| Knuckleboom Loader | 120.00 |
| Lowboy Trailer w/Tractor | 100.00 |
| Mobile Crane (Adequate for hanging limbs/leaning trees) | 175.00 |
| Pickup Truck, .5 Ton | 22.00 |
| Truck, Flatbed | 60.00 |
| Water Truck | 70.00 |
| Wheel Loader, 2.5 CY, 950 or similar | 120.00 |
| Wheel Loader, 3.5 – 4.0 CY, 966 or similar | 124.00 |
| Wheel Loader, 4.5 CY, 980 or similar | 140.00 |
| Wheel Loader-Backhoe, 1.0 – 1.5 CY | 65.00 |
| Other – Please List | |

| **Labor Category** | **Hourly Labor Rate** |
|---|---|
| Operations Manager w/Cell Phone and Pickup | 55.00 |
| Crew Foreman w/Cell Phone and Pickup | 45.00 |
| Tree Climber/Chainsaw | 95.00 |
| Laborer w/Chain Saw | 41.00 |
| Laborer w/small tools, traffic control, or flagperson | 26.00 |

| SCHEDULE 2 - UNIT RATE PRICE SCHEDULE<br>Reference to Section 24 of RFB | | | |
|---|---|---|---|
| **25.2 ROW Vegetative Debris Removal (Collect & Haul)**<br>Work consists of collection and transport of vegetative debris on the ROW to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.88 | 536,000 | 2,615,680. |
| **25.3 ROW C&D Debris Removal (Collect & Haul)**<br>Work consists of collection and transport of C&D debris on the ROW to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.88 | 80,000 | 390,400. |
| **25.4 Private Property Vegetative Debris Removal**<br>Work consists of collection and transport of vegetative debris on the private property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.88 | 60,606 | 295,757.28 |
| **25.5 Private Property C&D Debris Removal**<br>Work consists of collection and transport of C&D debris on private property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 4.88 | 37,600 | 183,488. |
| **25.6 City Parks and Other City Property Vegetative Debris Removal**<br>Work consists of collection and transport of vegetative debris in City parks or other City property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 5.26 | 100,000 | 526,000. |
| **25.7 Removal of Hazardous Leaning Trees and Hanging Limbs in City Parks and Other City Property**<br>Work consists of removing hazardous leaning trees or hanging limbs from City parks or other City property. | $ Per Tree | Estimated Tree Total | Total |
| 6 inch to 11.99 inch diameter | 49.00 | 300 | 14,700. |
| 12 inch to 23.99 inch diameter | 197.00 | 200 | 39,400. |
| 24 inch to 35.99 inch diameter | 217.00 | 100 | 21,700. |
| 36 inch to 47.99 inch diameter | 355.00 | 20 | 7,100. |
| 48 inch and larger diameter | 485.00 | 10 | 4,850. |
| | $ Per Tree | Estimated Tree Total | Total |
| Hangers greater than two (2') inches in diameter | 58.00 | 2,660 | 154,280. |
| **25.8 Removal of Hazardous Stumps from City Parks and Other Public Property**<br>Work consists of removing hazardous stumps and placing them on the ground for haul-off. | $ Per Unit | Estimated Units | Total |
| 24 inch to 35.99 inch diameter | 188.00 | 50 | 9,400. |
| 36 inch to 47.99 inch diameter | 288.00 | 30 | 8,640.00 |
| 48 inch and larger diameter | 357.00 | 10 | 3,570. |
| **25.9 DMS Management and Operation**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary to manage and operate a DMS on an inbound debris basis. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 1.39 | 536,000 | 745,040. |
| **25.10 Chipping (Reduction of Storm Generated Debris)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary to reduce storm generated debris by chipping. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 1.98 | 653,600 | 1,294,128. |
| **25.11 Haul-out of Reduced Debris to Final Disposal Site**<br>Work consists of collection and transport of reduced debris from a DMS to a City approved final disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 2.04 | 130,800 | 266,832. |

| | | | |
|---|---|---|---|
| **25.12 Removal of ROW Hazardous Leaning Trees and Hanging Limbs**<br>Work consists of removing hazardous leaning trees or hanging limbs and placing them on the ROW for haul-off. | $ Per Tree | Estimated Tree Total | Total |
| 6 inch to 11.99 inch diameter | 14.00 | 500 | 7000. |
| 12 inch to 23.99 inch diameter | 45.00 | 300 | 13500. |
| 24 inch to 35.99 inch diameter | 190.00 | 200 | 38000. |
| 36 inch to 47.99 inch diameter | 245.00 | 10 | 2450. |
| 48 inch and larger diameter | 310. | 5 | 1550. |
| | $ Per Tree | Estimated Tree Total | Total |
| Hangers greater than two (2') inches in diameter | 32.00 | 23,250 | 744000. |
| **25.13 Removal of Hazardous Stumps from City ROW**<br>Work consists of removing hazardous stumps and placing them on the ROW for haul-off. | $ Per Unit | Estimated Units | Total |
| 24 inch to 35.99 inch diameter | 188.00 | 50 | 9400. |
| 36 inch to 47.99 inch diameter | 288.00 | 30 | 8640. |
| 48 inch and larger diameter | 357.00 | 10 | 3570. |
| **25.14 Household Hazardous Waste Removal Transport and Disposal**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of HHW. | $ Per Pound | Estimated Pounds | Total |
| | 2.23 | 100,000 | 223000. |
| **25.15 Canals and Waterways Debris Removal (Collect & Haul)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of debris from City canals and waterways. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 84.00 | 5,000 | 420000. |
| **25.16 Abandoned Vehicle Removal**<br>Work consists of the removal of abandoned vehicles in areas identified and approved by the City and subsequently transported to a City approved staging area. | $ Per Unit | Estimated Units | Total |
| | 165.00 | 100 | 16500. |
| **25.17 Animal Carcass Removal and Disposal**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of Animal Carcasses. | $ Per Pound | Estimated Pounds | Total |
| | .45 | 1000 | 450. |
| **25.18 ROW White Goods Debris Removal (Collect & Haul)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of White Goods. | $ Per Unit | Estimated Units | Total |
| | 13.00 | 1000 | 13000. |
| **25.19 Freon Removal**<br>Work Consists of the recovery and disposal of refrigerants from items containing Freon. | $ Per Unit | Estimated Units | Total |
| | 38.00 | 750 | 28500. |
| **Total Estimated Contract Price** | | $ 8,110,525.20 | |

**Cradle to grave pricing for vegetative, stump and tree removal and disposal are encouraged and may be included by the Contractor for consideration by the City. If alternative pricing is included, the Contractor must specify which unit rate scope items are included. All estimates are derived using the Norman, Oklahoma Disaster Debris Management Plan. Estimates are calculated using a moderate disaster model and should not be considered actual totals. It is assumed that all portions of the above rate schedule may be necessary during debris removal and clearance operations.

# Pre-Position Agreement for Disaster Debris Management

This AGREEMENT is between City of Norman, Oklahoma, a municipal corporation (hereinafter referred to as CITY) and DRC EMERGENCY SERVICES, (hereinafter referred to as CONTRACTOR).

WITNESSETH:

For the purpose and subject to the terms and conditions hereinafter set forth, the CITY hereby contracts for certain services, and CONTRACTOR is prepared to provide such services as are agreed to in this document.

The parties agree as follows:

ARTICLE 1 – EFFECTIVE DATE.

The effective date of this AGREEMENT shall be _____, 2009. The Agreement shall remain in effect for a three (3) year period, with the option to extend the AGREEMENT for two additional one-year periods upon mutual agreement of the parties, unless otherwise terminated as provided herein. Activation of this agreement shall be based on a Notice to Proceed (NTP) issued by the Mayor of the City of Norman.

ARTICLE 2 – NATURE OF AGREEMENT.

It is agreed and understood between the parties hereto that this is a pre-positioned or "standby" AGREEMENT. As such, there is no value associated with this AGREEMENT and actual quantities will vary based on the applicable disaster type and scope.

ARTICLE 3 - SERVICES TO BE PERFORMED.

CONTRACTOR shall perform the services as stated in the Request for Bid of Contractual Services for Disaster Debris Clearance and Removal Services (the "Request for Bid") and the CONTRACTOR'S Response attached hereto and incorporated by reference as part of this AGREEMENT, and as may be specifically authorized by the CITY. Such authorizations will be referred to as Task Orders. Each Task Order will set forth a specific scope of services, rate/amount of compensation, estimated completion date, and other pertinent details of the task being authorized.

ARTICLE 4 – COMPENSATION

CITY shall pay CONTRACTOR in accordance with the Hourly Equipment and Labor Price Schedule and Unit Rate Price Schedule included with CONTRACTOR'S Response, which is attached hereto and incorporated by reference as part of this AGREEMENT.

CONTRACTOR may submit weekly or semi-monthly invoices for services rendered in accordance with the attached Request for Bid. Invoices must reference the Task Order number. CONTRACTOR shall submit invoices on a regular basis and in no instance, for more than a thirty (30) day period. CONTRACTOR shall be paid within twenty (20) days of submitting a complete invoice. If there are any items in dispute, CONTRACTOR will be paid for those items not in dispute, and disputed items will be resolved within 45 days, and paid within 10 days of resolution. Disputed items must be submitted to CONTRACTOR within ten (10) days of the receipt of the invoices.

Payment of CONTRACTOR by CITY is not contingent upon the CITY being reimbursed by any Federal or State agency. Payment to CONTRACTOR will be made for any work directed by the CITY.

In order for both parties to this AGREEMENT to close their books and records, CONTRACTOR will clearly state "Final Invoice" on CONTRACTOR'S final/last billing to the CITY.

ARTICLE 5- INSURANCE

CONTRACTOR shall maintain insurance limits in accordance with the Request for Bid. CONTRACTOR shall provide CITY six (6) original Certificates of Insurance evidencing such coverage prior to execution of this Agreement and again within twenty-four hours of receiving a Notice to Proceed under this Agreement.

ARTICLE 6 – SURVIVAL

Upon completion of all services, obligations and duties provided for in this AGREEMENT, or in the event of termination of this AGREEMENT for any reason, the terms and conditions of this AGREEMENT shall survive.

ARTICLE 7 – INDEMNIFICATION

CONTRACTOR shall defend, indemnify, and save harmless the CITY, its officers, agents and employees from and against all claims, damages, losses, and expenses including attorney fees arising out of or resulting from the performance of the work, caused by any act or omission of CONTRACTOR, any subcontractor, and anyone for whose acts any of them may be liable.

ARTICLE 8 – RELATIONSHIP OF PARTIES.

The CONTRACTOR shall operate as an independent contractor, and the CITY shall not be responsible for any of the CONTRACTOR'S acts or omissions. The CONTRACTOR shall not be treated as an employee with respect to the services performed hereunder for Federal or State tax, unemployment, or workers' compensation purposes. The CONTRACTOR understands that neither federal, nor state, no payroll tax of any kind shall be withheld or paid by the CITY on behalf of the CONTRACTOR or the employees of the CONTRACTOR. The CONTRACTOR further agrees that the CONTRACTOR is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The CONTRACTOR shall not be

treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participating in, any employee pension, health, or other fringe benefit plan of the CITY. The CITY shall not be liable to the CONTRACTOR for any expenses paid or incurred by the CONTRACTOR unless otherwise agreed in writing. The CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and supplies required to provide the contracted services unless otherwise agreed in writing. The CONTRACTOR shall comply with all federal, state, and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement. The CONTRACTOR shall insure that all personnel engaged in work under this Agreement shall be fully qualified and shall be authorized under state and local law to perform the services under this Agreement.

ARTICLE 9 – CITY'S RESPONSIBILITIES

CITY shall be responsible for providing access to all project sites, and providing information required by CONTRACTOR that is available in the files of the CITY to assist CONTRACTOR in completing any assigned tasks. CITY is responsible for assisting in obtaining any permits for CONTRACTOR to complete any Task Order assigned.

ARTICLE 10 – TERMINATION OF AGREEMENT

This AGREEMENT may be terminated in accordance with the terms set forth in the Request for Bid and fully incorporated by reference herein.

ARTICLE 11 – NON-DISCRIMINATION

CONTRACTOR shall treat all of its employees equally without regard to race, color, religion, gender, age or national origin.

ARTICLE 12 – SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of the AGREEMENT, or the occurrence of any event rendering any portion or provision of this AGREEMENT void, shall in no way affect the validity or enforceability of any other portion or provision of the AGREEMENT. Any void provision shall be deemed severed from the AGREEMENT and the balance of the AGREEMENT shall be construed and enforced as if the AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to reform the AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire AGREEMENT from being void should a provision which is of the essence of the AGREEMENT be determined to be void.

ARTICLE 13 - ENTIRETY OF AGREEMENT

The CITY and CONTRACTOR agree that this AGREEMENT, including the Request for Bid and CONTRACTOR's response to said request incorporated by reference and attached hereto, sets forth the entire AGREEMENT between the parties, and that there are no promises or

understandings other than those state herein. This AGREEMENT supersedes all prior contracts, representations, negotiations, letters or other communications between the CITY and CONTRACTOR pertaining to the services, whether written or oral. None of the provisions, terms and conditions contained in this AGREEMENT may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

ARTICLE 14 – MODIFICATION

The AGREEMENT may be modified in writing by Amendment executed by both CITY and CONTRACTOR.

ARTICLE 15 – SUCCESSORS AND ASSIGNS

CITY and CONTRACTOR bind themselves and their partners, successors, assigns and legal representatives to this AGREEMENT. CONTRACTOR shall not assign this AGREEMENT without the express written approval of the CITY.

ARTICLE 16 – NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As To CITY

CITY OF NORMAN, OKLAHOMA
P.O. Box 370
Norman, Oklahoma 73070
(Attn: Bob Hanger)

As To CONTRACTOR

Robert J. Isakson
DRC Emergency Services, LLC
740 Museum Drive
Mobile, AL 36608

ARTICLE 17 – GOVERNING LAW.

The parties agree that this Agreement shall be governed by the laws of the State of Oklahoma.

ARTICLE 18 – BOND

Upon issuance of a Notice to Proceed or Task Order, CONTRACTOR will provide such bonds as described in the Request for Bid attached hereto.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this AGREEMENT.

DATED this _____ day of _____, 200_.

**CITY OF NORMAN, OKLAHOMA**

By: _____

Mayor Cindy Rosenthal

ATTEST:

By: _____

Brenda Hall, City Clerk

Approved as to form and legality this _____ day of _____, 2009.

_____
City Attorney's Office

**CONTRACTOR**

By: _____

Name: Robert J. Isakson

Title: Managing Director

ATTEST:

By: _____ 12/10/2009

Title: Contracts Manager

**PROPOSER'S BID CERTIFICATION FORM**

To Whom It May Concern:

I have carefully examined the Request for Bid and any other documents accompanying or make a part of this Request for Bid.

I hereby propose to perform the following prices as specified in this Request for Bid No. 0000-00 at the rates described on **SCHEDULE 1 – HOURLY EQUIPMENT AND LABOR PRICE SCHEDULE and SCHEDULE 2 – UNIT RATE PRICE SCHEDULE.** I understand that all debris quantities listed in "SCHEDULE 2 – UNIT RATE PROCE SCHEDULE" are estimates only and actual totals will be based on post event analysis.

I certify that all information contained in this Bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this Bid on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

I further certify, under oath, that this Bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a Bid for the same product or service; no officer employee or agent of the City of Norman or any other proposer is interested in said Bid; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

It is distinctly understood that the Board of City Commissioners reserves the right to reject any or all Bids.

DRC Emergency Services, LLC
NAME OF FIRM

AUTHORIZED SIGNATURE

Chuck Prieur - Senior Vice President of Construction and Engineering
NAME & TITLE, TYPED OR PRINTED

740 Museum Drive
MAILING ADDRESS

Mobile, AL 36608
City, STATE, ZIP CODE

Federal Tax ID: 63-1283729

Phone: 251-343-3581

Fax: 251-343-5554

Email: cprieur@drcusa.com

Subscribed and sworn to before me this 9th day of November, 2009

Notary Public Erika Hunt

My Commission expires: 3.29.10

(SEAL)

ERIKA HUNT
NOTARY PUBLIC, ALABAMA STATE AT LARGE
MY COMMISSION EXPIRES 03-29-2010

## SCHEDULE 1 – HOURLY EQUIPMENT AND LABOR PRICE SCHEDULE

| **Equipment Type** – Ref. to Section No. 24.1 of RFB | **Hourly Equipment Rate** |
|---|---|
| Bobcat Loader | 85.00 |
| Bucket Truck w/Operator | 140.00 |
| Crash Truck w/Impact Attenuator | 75.00 |
| Dozer, Tracked, D5 or similar | 140.00 |
| Dozer, Tracked, D6 or similar | 170.00 |
| Dozer, Tracked, D7 or similar | 195.00 |
| Dozer, Tracked, D8 or similar | 240.00 |
| Dump Truck, 18 CY-20 CY | 65.00 |
| Dump Truck, 21 CY-30 CY | 90.00 |
| Generator and Lighting | 25.00 |
| Grader w/12' Blade | 170.00 |
| Hydraulic Excavator, 1.5 CY | 160.00 |
| Hydraulic Excavator, 2.5 CY | 170.00 |
| Knuckleboom Loader | 140.00 |
| Lowboy Trailer w/Tractor | 90.00 |
| Mobile Crane (Adequate for hanging limbs/leaning trees) | 225.00 |
| Pickup Truck, .5 Ton | 35.00 |
| Truck, Flatbed | 50.00 |
| Water Truck | 85.00 |
| Wheel Loader, 2.5 CY, 950 or similar | 160.00 |
| Wheel Loader, 3.5 – 4.0 CY, 966 or similar | 175.00 |
| Wheel Loader, 4.5 CY, 980 or similar | 195.00 |
| Wheel Loader-Backhoe, 1.0 – 1.5 CY | ~~225.00~~ 125.00 |
| Other – Please List | |

| **Labor Category** | **Hourly Labor Rate** |
|---|---|
| Operations Manager w/Cell Phone and Pickup | 75.00 |
| Crew Foreman w/Cell Phone and Pickup | 65.00 |
| Tree Climber/Chainsaw | 140.00 |
| Laborer w/Chain Saw | 42.00 |
| Laborer w/small tools, traffic control, or flagperson | 42.00 |

| SCHEDULE 2 - UNIT RATE PRICE SCHEDULE<br>Reference to Section 24 of RFB | | | |
|---|---|---|---|
| **25.2 ROW Vegetative Debris Removal (Collect & Haul)**<br>Work consists of collection and transport of vegetative debris on the ROW to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 5.42 | 536,000 | 2,905,120.00 |
| **25.3 ROW C&D Debris Removal (Collect & Haul)**<br>Work consists of collection and transport of C&D debris on the ROW to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 5.82 | 80,000 | 465,600.00 |
| **25.4 Private Property Vegetative Debris Removal**<br>Work consists of collection and transport of vegetative debris on the private property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 5.42 | 60,606 | 328,484.52 |
| **25.5 Private Property C&D Debris Removal**<br>Work consists of collection and transport of C&D debris on private property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 5.82 | 37,600 | 218,832.00 |
| **25.6 City Parks and Other City Property Vegetative Debris Removal**<br>Work consists of collection and transport of vegetative debris in City parks or other City property to a City approved DMS of other designated disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 5.42 | 100,000 | 542,000.00 |
| **25.7 Removal of Hazardous Leaning Trees and Hanging Limbs in City Parks and Other City Property**<br>Work consists of removing hazardous leaning trees or hanging limbs from City parks or other City property. | $ Per Tree | Estimated Tree Total | Total |
| 6 inch to 11.99 inch diameter | 40.00 | 300 | 12,000.00 |
| 12 inch to 23.99 inch diameter | 100.00 | 200 | 20,000.00 |
| 24 inch to 35.99 inch diameter | 250.00 | 100 | 25,000.00 |
| 36 inch to 47.99 inch diameter | 400.00 | 20 | 8,000.00 |
| 48 inch and larger diameter | 700.00 | 10 | 7,000.00 |
| | $ Per Tree | Estimated Tree Total | Total |
| Hangers greater than two (2') inches in diameter | 62.00 | 2,660 | 164,920.00 |
| **25.8 Removal of Hazardous Stumps from City Parks and Other Public Property**<br>Work consists of removing hazardous stumps and placing them on the ground for haul-off. | $ Per Unit | Estimated Units | Total |
| 24 inch to 35.99 inch diameter | 200.00 | 50 | 10,000.00 |
| 36 inch to 47.99 inch diameter | 300.00 | 30 | 9,000.00 |
| 48 inch and larger diameter | 400.00 | 10 | 4,000.00 |
| **25.9 DMS Management and Operation**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary to manage and operate a DMS on an inbound debris basis. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 1.62 | 536,000 | 868,320.00 |
| **25.10 Chipping (Reduction of Storm Generated Debris)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary to reduce storm generated debris by chipping. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 1.24 | 653,600 | 810,464.00 |
| **25.11 Haul-out of Reduced Debris to Final Disposal Site**<br>Work consists of collection and transport of reduced debris from a DMS to a City approved final disposal facility. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 2.96 | 130,800 | 387,168.00 |

| | | | |
|---|---|---|---|
| **25.12 Removal of ROW Hazardous Leaning Trees and Hanging Limbs**<br>Work consists of removing hazardous leaning trees or hanging limbs and placing them on the ROW for haul-off. | $ Per Tree | Estimated Tree Total | Total |
| 6 inch to 11.99 inch diameter | 20.00 | 500 | 10,000.00 |
| 12 inch to 23.99 inch diameter | 110.00 | 300 | 33,000.00 |
| 24 inch to 35.99 inch diameter | 200.00 | 200 | 40,000.00 |
| 36 inch to 47.99 inch diameter | 395.00 | 10 | 3,950.00 |
| 48 inch and larger diameter | 550.00 | 5 | 2,750.00 |
| | $ Per Tree | Estimated Tree Total | Total |
| Hangers greater than two (2') inches in diameter | 40.00 | 23,250 | 930,000.00 |
| **25.13 Removal of Hazardous Stumps from City ROW**<br>Work consists of removing hazardous stumps and placing them on the ROW for haul-off. | $ Per Unit | Estimated Units | Total |
| 24 inch to 35.99 inch diameter | 250.00 | 50 | 12,500.00 |
| 36 inch to 47.99 inch diameter | 350.00 | 30 | 10,500.00 |
| 48 inch and larger diameter | 550.00 | 10 | 5,500.00 |
| **25.14 Household Hazardous Waste Removal Transport and Disposal**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of HHW. | $ Per Pound | Estimated Pounds | Total |
| | 3.95 | 100,000 | 395,000.00 |
| **25.15 Canals and Waterways Debris Removal (Collect & Haul)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of debris from City canals and waterways. | $ Per Cubic Yard | Estimated Cubic Yards | Total |
| | 62.00 | 5,000 | 310,000.00 |
| **25.16 Abandoned Vehicle Removal**<br>Work consists of the removal of abandoned vehicles in areas identified and approved by the City and subsequently transported to a City approved staging area. | $ Per Unit | Estimated Units | Total |
| | 125.00 | 100 | 12,500.00 |
| **25.17 Animal Carcass Removal and Disposal**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of Animal Carcasses. | $ Per Pound | Estimated Pounds | Total |
| | 5.95 | 1000 | 5,950.00 |
| **25.18 ROW White Goods Debris Removal (Collect & Haul)**<br>Work consists of all labor, equipment, fuel and miscellaneous costs necessary for removal, transportation and disposal of White Goods. | $ Per Unit | Estimated Units | Total |
| | 40.00 | 1000 | 40,000.00 |
| **25.19 Freon Removal**<br>Work Consists of the recovery and disposal of refrigerants from items containing Freon. | $ Per Unit | Estimated Units | Total |
| | 35.00 | 750 | 26,250.00 |
| **Total Estimated Contract Price** | | $ 8,623,808.52 | |

**Cradle to grave pricing for vegetative, stump and tree removal and disposal are encouraged and may be included by the Contractor for consideration by the City. If alternative pricing is included, the Contractor must specify which unit rate scope items are included. All estimates are derived using the Norman, Oklahoma Disaster Debris Management Plan. Estimates are calculated using a moderate disaster model and should not be considered actual totals. It is assumed that all portions of the above rate schedule may be necessary during debris removal and clearance operations.

10. ITEM: LIMITED LICENSE NO. 0910-6: LIMITED LICENSE TO PLACE FOUR (4) GROUND BANNERS WITHIN THE PUBLIC RIGHTS-OF-WAY PURSUANT TO A REQUEST FROM THE FIREHOUSE ART CENTER FOR THE CHOCOLATE FESTIVAL.

INFORMATION: City Council, in its meeting of August 8, 1995, adopted Ordinance No. O-9596-6 providing a limited license for placement of festival and public event banners which would be granted by the City Council. The Firehouse Art Center has requested placement of four (4) ground banners at various locations in the City of Norman for a thirty-one day (31) day period. In accordance therewith, the above-described item is submitted for City Council's consideration. Copies of an advisory memorandum, application, and limited license are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject Limited License No. 0910-6 to place four (4) ground banners within the public rights-of-way pursuant to a request from the Firehouse Art Center for the Chocolate Festival; and, if approved, authorize the issuance thereof.

ACTION TAKEN: _____

office memorandum

**Date:** December 10, 2009

**To:** Honorable Mayor and Councilmembers
Norman City Council

**From:** Wayne D. Stenis, AICP, Planner II WS

**Subject:** Agenda Item: December 22, 2009
Limited License No. 0910-6
Firehouse Art Center - Chocolate Festival

## BACKGROUND

Section 18-308 states:

> **Festival or Public Event Banners.**
> *Signs announcing specific events or promotions that are of a legitimate public benefit to the community at large may be erected within the public right-of-way when authorized by a limited license granted by the City Council. The size, number, type, and wording of such signs must be specified in the license, as well as their location and duration of use. Because of their unique location within the public right-of-way, such banners may not be placed so as to interfere with legitimate traffic and safety concerns.*

## DISCUSSION

The Firehouse Art Center will be hosting the 28th Annual Chocolate Festival. They have requested permission to display four signs throughout the community to announce the event. Each sign is 4' by 8.' The banners would be erected on January 2nd, and removed by February 1st. The locations that have been selected are acceptable.

## RECOMMENDATION

The locations are acceptable, and will not impact any designated sight triangles if properly placed. Staff has prepared the license in accordance with their request, and presents it to the Council for their consideration. Other than the stipulated time frame, staff has not suggested that additional conditions be attached. Conditions may be attached, if the Council desires. Staff is not opposed to granting this Limited License, for the specified time period.

Reviewed by: Susan Connors, Planning and Community Development Director SJC
Steve Lewis, City Manager
Jeff Bryant, City Attorney BN

**LIMITED LICENSE NO. 0910-6**

**LIMITED LICENSE TO PLACE FOUR (4) GROUND BANNERS WITHIN THE PUBLIC RIGHTS-OF-WAY PURSUANT TO A REQUEST FROM THE FIREHOUSE ART CENTER FOR THE CHOCOLATE FESTIVAL.**

An Application has been filed by the Firehouse Art Center for the Chocolate Festival for a Limited License to place four (4) ground banners within the public rights-of-way pursuant to Section 18-308 of Chapter 18 of the Code of Ordinances, which Application is hereby granted pursuant to the conditions and limitations as set forth in said Application.

Special conditions for the granting of this limited license by the City Council are as follows:

Strict compliance with all the conditions set forth in the application filed herein with regard to description, location, duration, and wording as specified in the application which is incorporated herein and made a part hereof

License limited for a thirty-one day period from January 2 through February 1, 2010.

Any special conditions which may be imposed by the City Council.

Further, any breach of the conditions as above set forth shall be grounds for immediate revocation of this license and further that the City Council may revoke this limited license at will and for any cause whatsoever upon the giving of thirty (30) days notice authorized by the City Council to the application.

Approved this 22nd day of December, 2009.

CITY OF NORMAN

_____
Mayor

ATTEST:

_____
City Clerk

APPLICATION FOR LIMITED LICENSE
FOR FESTIVAL OR PUBLIC EVENT BANNER OR SIGN

Date 11/19/9

Name of Applicant Firehouse Art Center

Address 444 S. Hood, Norman Telephone Number 329-4523

Number of Banners/Signs 4

Location of Banners (If list is lengthy you may attach separate sheet or map)

Corner of: Symmes & Hood (SW Corner)
24th Ave NW & Main (SE Corner)
24th Ave NW & Robinson (NW Corner)
12th Ave SE & Alameda (NW Corner)

Banner Size 4' x 8'

Type of Banner Vinyl

Wording of Banner
28th Annual Chocolate Festival

Duration of Use 1-2-2010 to 2-1-2010 (31 days)

Because of their unique location within the public right-of-way, such banners shall not be placed so as to interfere with legitimate traffic and safety concerns.
Additionally, these are intended to be of benefit to the community at large and not private commercial advertising, although they may contain a sponsor's identification on a minor portion of the sign.

11. ITEM: CONSIDERATION OF TEMPORARY CONSENT TO ENCROACHMENT NO. 0910-4 FOR LOT 1, BLOCK 1, FOWLER ADDITION. (950 INTERSTATE DRIVE NORTH)

INFORMATION: Staff has considered the request and temporary encroachment delineated in the above-described consent and recommends Temporary Consent to Encroachment No. 0910-4 be approved. Copies of an advisory memorandum; Temporary Consent to Encroachment; letter of request; location maps; Staff memoranda; and supplemental material are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject Temporary Consent to Encroachment No. 0910-4; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

office memorandum

**TO:** The Honorable Mayor and Councilmembers

**THROUGH:** Jeff Harley Bryant, City Attorney

**FROM:** R. Blaine Nice, Assistant City Attorney

**DATE:** December 14, 2009

**SUBJECT:** Temporary Consent to Encroachment No. 0910-4 Lot 1, Block 1, Fowler Addition to the City of Norman, Cleveland County, Oklahoma

**BACKGROUND:**

An encroachment request has been filed in the office of the City Clerk by the SMC, consulting engineers, on behalf of Fowler Honda requesting a Temporary Consent to Encroach into a City of Norman utility easement at the above-described property.

**DISCUSSION:**

The application for a temporary consent to encroach concerns the encroachment upon a City of Norman utility easement to build a new building. As indicated by the Public Works and Utility Departments, the encroachment is on an existing utility easement which the City no longer utilizes. The applicant was granted a new easement for the relocated water main and has filed an application to vacate the current easement. The application to vacate the easement will be on the January Planning Commission agenda. However, the applicant desires to move forward with construction on the property prior to the timeframe for the vacation of the easement. Due to these time constraints the temporary consent to encroach has been requested.

The benefit to having a temporary consent to encroach on file is that it is evidence of the property owner's understanding that, while the City is allowing them to encroach upon the easement, the City is not liable and will not be responsible for damage to the property owner's property in the event the easement must be used prior to completion of the vacation process. If the easement is not vacated the temporary consent to encroach will expire.

**RECOMMENDATION:**

Based upon the above and foregoing, the City Attorney's office is forwarding the above Consent to Encroach for Council consideration.

Reviewed by: Steve Lewis, City Manager

cc: Ellen Usry, Deputy City Clerk

**TEMORARY CONSENT**

Temporary Consent to Encroachment No 0910-4

WHEREAS, the City of Norman, Cleveland County, is in possession of a utility easement on the land described as follows, to-wit:

Lot 1, Block 1, Fowler Addition to Cleveland County, Oklahoma;

AND WHEREAS, the owner of the above-described property requests that a new building be allowed to encroach upon the utility easement along the south side of the lot;

AND WHEREAS, the owner has requested that the City temporarily consent in writing to the new building being located at the requested location;

AND WHEREAS, this Temporary Consent to Encroach shall remain in effect until such time that the easement if vacated pursuant to an order of the Cleveland County District Court and, in the event the easement is not vacated pursuant to City Ordinance and state statute, this temporary consent and applicable restrictions shall remain in full force and effect.

NOW, THEREFORE, the City of Norman does hereby temporarily consent to said new building being within and upon the utility easement with the following conditions:

1. The property owner be responsible for the cost of repairs for any damages to the City's utility easement caused by any excavation or other construction activities conducted on their behalf.

2. The property owner will be responsible for the cost the City incurs to remove the damage to the new building, if needed, to facilitate maintenance or repair of the City's utilities.

3. The property owner will be responsible for the cost to repair or replace any part of the new building after such repairs.

4. The property owner waives and releases any claims against the City for any damages to the building and related improvements caused by any excavation by the City for purposes of maintaining or replacing the City's utility facilities within the easement area.

5. By encroaching on said easement, the property owner releases AT&T, OG&E, ONG, OEC and/or Cox Communications of responsibility to repair, rebuild, or maintain any of their utilities in the easement.

6. Damages to AT&T, OG&E, ONG, OEC and/or Cox Communications facilities resultant from any current/future construction may carry possible financial charges to the property owner.

The temporary consent is limited to the new building as indicated in the application being located within the utility easement and the City does not authorize or consent to the construction or location of any other structure of a permanent nature within the easement. Further, this temporary consent is given with the understanding that the property owner is responsible for any and all direct and consequential damages resulting from the granting of this temporary consent with entry to or upon the existing utility easement as required at any time in the future.

The City, or any other entity so authorized, shall not be held responsible for any and all direct or consequential damages to encroaching improvements resulting from entry, by the City, or any other entity so authorized, upon said utility easement, for any purpose associated with the maintenance, construction, relocation, etc. of any utility located within the said easement.

IN WITNESS WHEREOF, the undersigned has executed this temporary consent this ____ day of December, 2009.

THE CITY OF NORMAN, OKLAHOMA

_____

Mayor

ATTEST:

_____

City Clerk

On this _____ day of December, 2009, before me personally appeared _____ and _____, to me to be known to be the identical persons who executed the same as their free and voluntary act and deed of such municipal corporation, for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

My Commission Expires: _____ _____

Notary Public

OWNER:
FOWLER HONDA

By: _____
Name: _____
Title: _____

On this _____ day of December, 2009 before me personally appeared _____ _____ to me to be known to be the identical person(s) who executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

_____

Notary Public

My Commission Expires: _____

The City of Norman
Post Office Box 370
Norman, OK 73070

**SMC**
**Your Civil Engineering Solution**

Consulting Engineers, P.C.
815 West Main
Oklahoma City, OK 73106
405-232-7715
FAX 405-232-7859
www.smcokc.com

*Civil Engineering*
*Land Development*
*Storm Water Management*

Tom L. McCaleb
Terence L. Haynes
Christopher D. Anderson
Ole M. Marcussen

November 23, 2009

Mrs. Brenda Hall
City Clerk
City of Norman
201 West Gray Stret
Norman, OK 73070

RE: Fowler Honda
Lot 1, Block 1 Fowler Addition
East I-35 Service Road, south of Robinson Street
Norman, OK

Dear Mrs. Hall,

SMC Consulting Engineers, P.C. is requesting on behalf of our client, Fowler Honda, for a consent to encroach an existing utility easement on the above mentioned site, Lot 1, Block 1, Fowler Addition.

The proposed building overlaps an existing waterline in an existing 10' utility easement. It is proposed to relocate the water line around the south side of the new building and grant a new easement to cover said relocated water line.

Once the water line has been relocated and the new easement granted, it is proposed to vacate the existing easement per the attached exhibit.

If you have any questions, please contact this office.

Sincerely,

Ole M. Marcussen, P.E.

attachments

Cc: Client
AIP
file

FILED IN THE OFFICE
OF THE CITY CLERK
ON 11/25/09

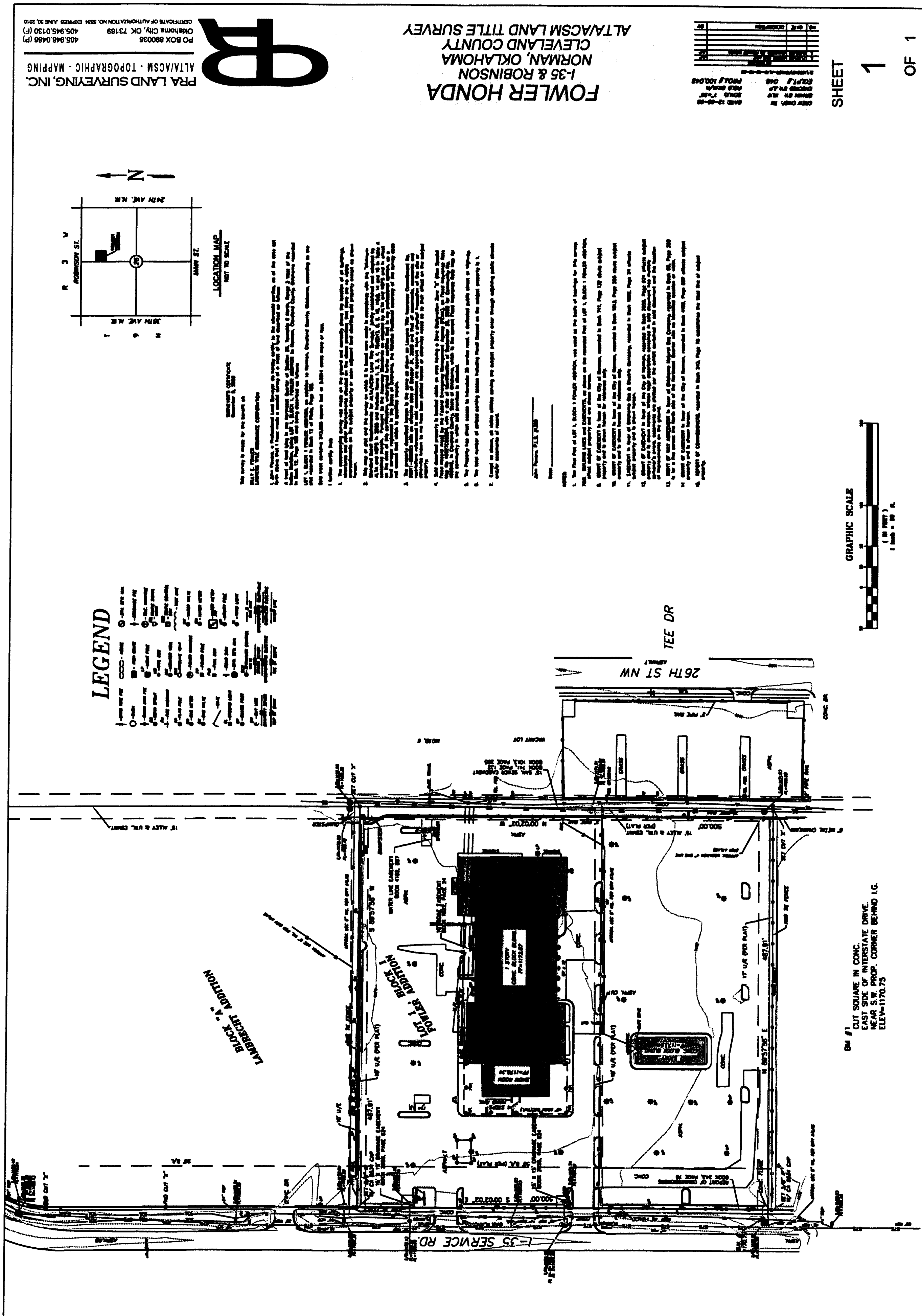
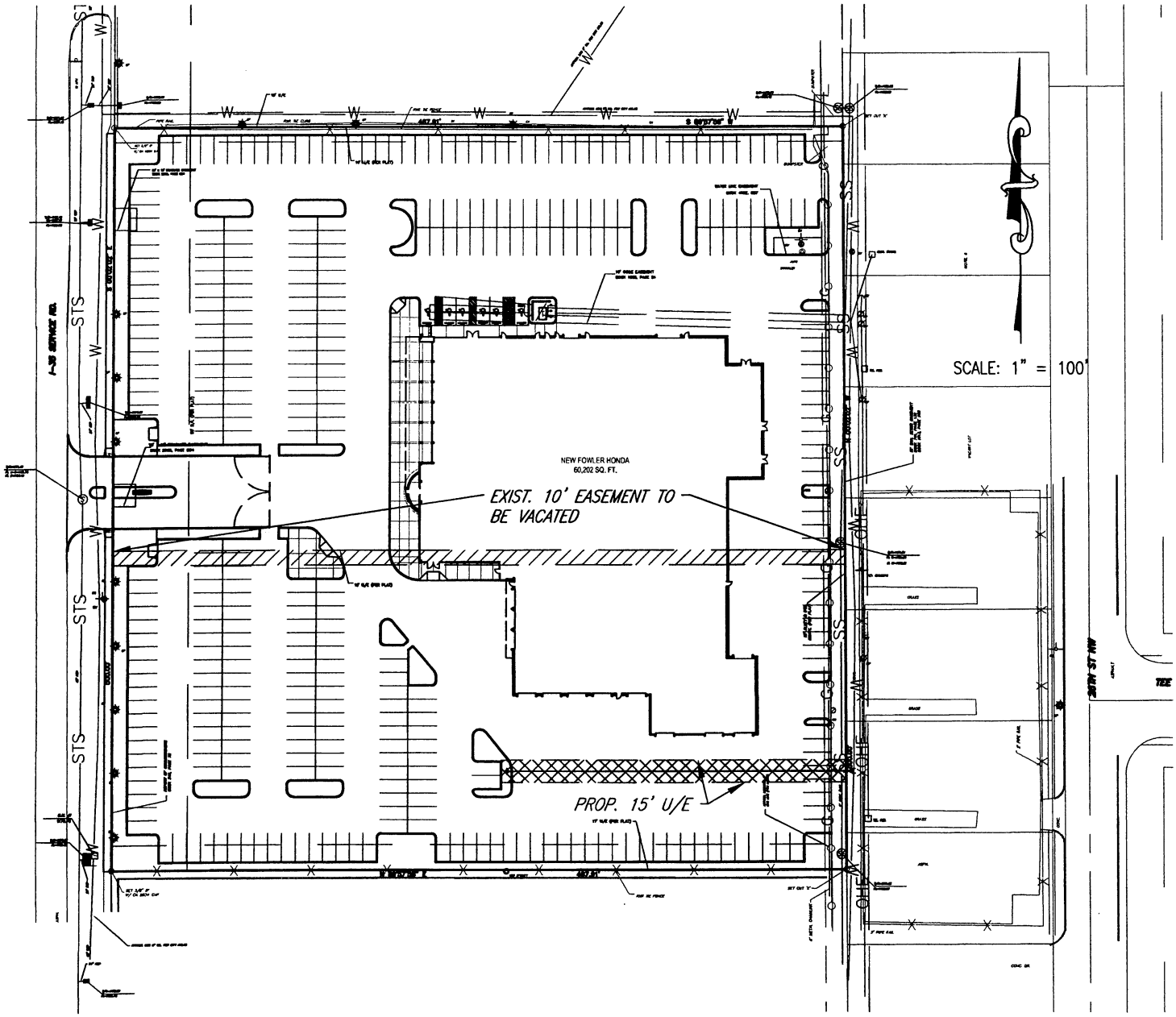

PRA LAND SURVEYING, INC.
ALTA/ACSM - TOPOGRAPHIC - MAPPING
PO BOX 890035
Oklahoma City, OK 73189
405.948.0486 (P)
405.945.0130 (F)
CERTIFICATE OF AUTHORIZATION NO. 5534 EXPIRES JUNE 30, 2010
FOWLER HONDA
I-35 & ROBINSON
NORMAN, OKLAHOMA
CLEVELAND COUNTY
ALTA/ACSM LAND TITLE SURVEY
SHEET 1 OF 1
LOCATION MAP
NOT TO SCALE
ROBINSON ST.
MAIN ST.
24TH AVE. N.W.
36TH AVE. N.W.
LEGEND
GRAPHIC SCALE
26TH ST NW
TEE DR
I-35 SERVICE RD.
BLOCK "A" LAMBRECHT ADDITION
LOT 1, BLOCK 1 FOWLER ADDITION
N 00°02'02" W 500.00'
S 00°02'02" E 500.00'
487.91'
BM #1
CUT SQUARE IN CONC.
EAST SIDE OF INTERSTATE DRIVE.
NEAR S.W. PROP. CORNER BEHIND I.G.
ELEV=1170.75

**EXHIBIT "A"**
**(SHEET 1 OF 1)**

**CONSENT TO ENCROACH**
**FOWLER HONDA**
**NORMAN, CLEVELAND COUNTY, OKLAHOMA**

**NOVEMBER 30, 2009**



office memorandum

DATE: November 25, 2009

TO: Jeff Bryant, City Attorney
Doug Koscinski, Current Planning Manager
Ken Danner, Development Coordinator
Ken Komiske, Director of Utilities

FROM: Brenda Hall, City Clerk BH

SUBJECT: Request for Consent to Encroachment No. 0910-4

I am in receipt of an encroachment request for permission to encroach on a utility easement in Lot 1, Block 1, Fowler Addition. I am forwarding the letter of request, site plan, plat, and survey. After the information has been received from the Planning Department, Public Works Department, and Utilities Department and a determination has been made on whether to recommend approval or denial, please forward your recommendation and Consent to Encroachment Form, if needed, to my office in order that it may be scheduled as an agenda item.

This item will be scheduled as an agenda item on December 22, 2009, and the information must be received in my office by December 8, 2009. If there is a problem in meeting that timeframe, please advise.

smr
attachments

office memorandum

**DATE:** December 16, 2009

**TO:** Honorable Mayor and Councilmembers

**FROM:** Doug Koscinski, AICP DJK
Manager of Current Planning

**SUBJECT:** Agenda Item: December 22
Consent to Encroachment No. 0910-4
955 North Interstate Drive

**BACKGROUND**. The owner of this property intends to construct a new automobile dealership (Honda) at this location. When the site was occupied by their Toyota dealership, there were two buildings (one each for new and used cars), with a utility easement between the buildings. The easement contained a water line that provided an internal loop for fire protection of both buildings. The current proposal is to build one new building approximately centered in the middle of the entire tract, violating the ten-foot easement which currently exists. Lot 1, Block 1 Fowler Addition is zoned I-1, Light Industrial District, which allows automobile sales. The applicant has requested that a Consent to Encroachment be approved as an interim solution to the more complicated vacation procedure.

**DISCUSSION**. When this area began development, the principal water line serving the area ran north-south along the frontage road. Secondary loops off that line, such as this one, were installed as new buildings were constructed in order to provide fire protection around each new building. A new north-south water line has been installed by the city in the alley along the rear of these lots, eliminating or minimizing the need for such internal loops. In this particular case, the applicant has submitted a separate application to close and vacate the east-west easement, and has already proposed a separate new line connecting to the water line in the alley. In order to expedite construction of the new dealership, the applicant has requested approval of a Consent to Encroachment as a short-term solution while the new water line is installed and the old easement is vacated.

**RECOMMENDATION**. Planning staff is not opposed to granting this request while the applicant pursues the lengthier vacation process. That application has already been filed with the City Clerk's office, and is scheduled to appear on the Planning Commission's agenda in January.

DJK/ep

Reviewed by: Susan Connors, AICP SFC
Director of Planning and Community Development

office memorandum

Date: December 8, 2009

To: Brenda Hall, City Clerk

From: Jim Speck, Capital Projects Engineer JS

Re: Consent to Encroach 0910-4
Lot 1, Block 1, Fowler Addition

Currently, Lot 1, Block 1, Fowler Addition has a 10 Foot Utility Easement located through the center of the parcel. The owner requests construction of a building, which would extend across the platted 10 foot U/E.

A City project replaced the water lines adjacent to the east and west property lines several years ago and abandoned the water line located within the platted 10 foot U/E. Therefore, no utilities owned and maintained by the City are located in the U/E.

The Utilities Department has no objection to the encroachment as shown on "Exhibit A" and would support vacation of the easement along the abandoned water line. Please advise if you have any questions.

Cc: Jeff Bryant
Ken Danner
Ken Komiske
Mark Daniels
David Hager

office memorandum

**Date:** December 8, 2009

**To:** Blaine Nice, Assistant City Attorney

**From:** Ken Danner, Development Manager KD

**Subject:** Consent to Encroach
Lot 1, Block 1, Fowler Addition
955 Interstate Drive

This property previously had two buildings located on it with a water main located between the two buildings. A few years ago the City eliminated a portion of the water main. The only remaining line was a stub out with a fire hydrant. The existing buildings were removed from the site. The owners propose to construct a large single Honda facility on the site.

Public Works/Engineering has no objection to the consent to encroach for subject lot. The encroachment does impact an existing water main. However, the water main will no longer be in service. A new water line to serve a fire hydrant will be located south of the proposed building. In order to expedite a "foundation only" building permit to meet a time restraint of the project, the engineer for the owners made this request. It is their intent to close and vacate the existing utility easement in the very near future. A new easement will be submitted to the City for acceptance covering the new water line. The new location for the water line, fire hydrant and easement are located on the submitted site plan.

Utility companies did not object and most of their comments referenced to their utilities located in the alley easement located east of the project.

If you have any further questions, please feel free to contact me.

KD/tf

Reviewed by: Shawn O'Leary, Director of Public Works

cc: Brenda Hall, City Clerk
Ken Komiske, Director of Utilities
Bob Hanger, City Engineer

PO Box 321
Oklahoma City, Oklahoma 73101-0321
405-553-3000
www.oge.com

OG&E

OG&E Electric Services
An OGE Energy Corp. Company

NOVEMBER 30, 2009

CITY OF NORMAN PLANNING COMMISSION
KEN DANNER, DEVELOPMENT COORDINATOR
P. O. BOX 370
NORMAN, OK. 73070

RE: **Consent to encroach in a platted 10' utility easement**
**Lot 1, Block 1, FOWLER ADDITION**
**955 Interstate Drive**
**Applicant: Fowler Honda**
**Encroachment No. 0910-4**

Mr. Danner:

Available records show that OG&E Electric Services has no facilities in the above mentioned utility easement located in Lot 1, Block 1, of the Fowler Addition. The OG&E line serving the demolished building has been abandoned and the pad mount transformer has been removed.

OG&E does not object to the encroachment. If I can provide you with any other information, please contact me at (405) 553-5174.

Sincerely,

Timothy J. Bailey

Timothy J. Bailey
Right-Of-Way Agent

**Drew Norlin**

**From:** Ken Danner
**Sent:** Wednesday, December 02, 2009 3:28 PM
**To:** Drew Norlin
**Subject:** FW: Lot 1, Block 1, Fowler Addition--a/k/a 955 Interstate Drive--Consent to Encroach--No. 0910-4

**From:** Thad Peterson [mailto:TPeterson@okcoop.org]
**Sent:** Tuesday, December 01, 2009 3:37 PM
**To:** Ken Danner
**Subject:** Fwd: Lot 1, Block 1, Fowler Addition--a/k/a 955 Interstate Drive--Consent to Encroach--No. 0910-4

Ken,
Oec has no objection to the easement encroachment listed below.

Thanks,

Thad Peterson
Supervisor of Eng. Services
Oklahoma Electric Cooperative
(405)217-6625

Begin forwarded message:

**From:** "Drew Norlin" <Drew.Norlin@NormanOK.gov>
**To:** "baileytj@oge.com" <baileytj@oge.com>, "jsullivan@oneok.com" <jsullivan@oneok.com>, "marshall.birchett@cox.com" <marshall.birchett@cox.com>, "Randy F. Harrell" <Randy.Harrell@oneok.com>, "terri.hayes@att.com" <terri.hayes@att.com>, "Thad Peterson" <tpeterson@okcoop.org>
**Cc:** "Ken Danner" <kdanner@NormanOK.gov>
**Subject: Lot 1, Block 1, Fowler Addition--a/k/a 955 Interstate Drive--Consent to Encroach--No. 0910-4**

Please contact Ken Danner regarding this consent to encroach the 10' utility easement for a new structure with your approval or disapproval as soon as possible. His email address is ken.danner@ci.norman.ok.us <mailto:ken.danner@ci.norman.ok.us> or call him at 366-5458.

Thanks

Drew Norlin

# OKLAHOMA NATURAL GAS

A DIVISION OF ONEOK

12-02-2009

Ken Danner, ken.danner@ci.norman.ok.us – Development Coordinator Manager
Drew Norlin, Drew.Norlin@NormanOK.gov - Asst. Development Coordinator

City of Norman
201 West Gray, Bldg A
Norman 73069

Dear Mr. Norlin or Mr. Danner

**LETTER OF NO OBJECTION FOR A REVOCABLE PERMIT TO ALLOW THE CONSENT TO ENCROACH ON A UTILITY EASEMENT IN LOT 1 BLOCK 1 FOWLER ADDITION. THIS IS THE WATER UTILITY EASEMENT RUNNING EAST TO WEST. #09104**

**Oklahoma Natural Gas Company does not object to the city of Norman issuing a permit for the purpose described above.**

**We do have 4" poly, natural gas distribution main at this address. It is in the utility easement running North and South on the East property line that will not be affected. Because of this we recommend that OKIE ONE CALL SYSTEM (1-800-522-6543) be contacted (48) hours prior to any excavation being done.**

**Should our facilities be damaged as a result of your installation, you and your contractor will be liable for any cost of repairs. These cost could include a cost calculation for gas loss should any occur.**

**If we can be of any further assistance, you can contact Shannon Davis at, 366-2451**

**Sincerely,**

12/2/09

**Shannon Davis**

AKA 955 INTERSTATE DR.

625 N. Berry Road • Norman, OK 73069-7541
(405) 366-2407 • Fax (405) 366-2440
www.onp.com

Cox Communications, Inc.
6301 Waterford Blvd., Suite 200
Oklahoma City, Oklahoma 73118

December 8, 2009

The City of Norman
Planning and Community Development
Attn. Ken Danner
PO Box 370
Norman, Oklahoma 73070

RE: Lot 1, Block 1, Fowler Addition-a/k/a 955 Interstate Drive--Consent to Encroach--No. 0910-4

To Whom It May Concern:

Cox Communications, has no objection to the encroachment of the building being built over the utility easement indicated, located on Lot 1, Block 1, Fowler Addition, to Norman, Cleveland County, Oklahoma.

Prior to beginning any digging and/ or trenching activities, please call OKIE-ONE 1-800-522-6543 for exact location of our facilities. Cost to repair any Cox Communications, facility damage during construction of this project will be the responsibility of the damaging party.

If you have any question or concerns, please feel free to contact our office at
(405) 600-6269 or (405)600-6336

Sincerely,

Marshall Birchett
Right of Way Agent

jf

Terri Hayes
Engineering and Construction
6100 S Walker Avenue
Room 111-E
Oklahoma City, OK 73139

T: 405-636-3770
F: 405-636-3778

December 8, 2009

**Consent to Encroach No. 0910-4**
**Utility Easement**
**Fowler addition**
**Block 1; Lot 1**
**Cleveland County**
**a/k/a 955 N. Interstate Dr.**
**Norman, Ok.**

To Whom It May Concern:

Review of the above request to encroach the existing utility easements on the above referenced property has been completed. Please be advised that ATT Southwest has no objections to encroach upon said easement under the following advisements.

a. AT&T does have a buried copper distribution cable located within the rear utility easement (alleyway) of this lot.
b. By encroaching on said easement, the property owner hereby releases AT&T of responsibility to repair, rebuild, or maintain any properties placed by property owner in said easement.
c. Property owner must ensure accurate up-to-date facilities locates are obtained by contacting OKIE-ONE (1-800-522-6543).
d. Damage to AT&T facilities resulting from this or any future construction within this easement may carry cost charges to property owner.
e. Any requests to move and/or lower facilities will be at the property owner's cost.
f. AT&T retains all of its rights with respect to its property, right-of-way or easement. Specifically, AT&T retains the right to access its telecommunications facilities to repair, maintain or augment its telecommunications network.

If you have any questions, please feel free to contact me on (405) 636-3770.

Sincerely,

Terri Hayes
Manager – OSP Planning and Engineering Design
Norman/Noble Wire Centers
6100 S. Walker, Room 111E
Oklahoma City, Oklahoma 73139



USA

12. ITEM: AMENDMENT NO. SIX TO CONTRACT NO. K-0304-65: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND SORCE, INC., IN AN AMOUNT NOT-TO-EXCEED $60,000 FOR THE WASTEWATER SLUDGE REDUCTION PROJECT AND EXTENDING THE CONTRACT TO DECEMBER 23, 2010.

INFORMATION: The Norman Utilities Authority, in its meeting of October 14, 2003, approved Contract No. K-0304-65 with Sorce, Inc., in an amount not-to-exceed $60,000 for the Wastewater Sludge Reduction Project to introduce a microbial solution into excess sludge stored in storm holding ponds at the Wastewater Treatment Plant. The initial contract was successful in reducing the volume of stored sludge prior to land application. Amendment No. One approved December 28, 2004, extended the contract to December 23, 2005. Amendment No. Two approved December 13, 2005, extended the contract to December 23, 2006. Amendment No. Three approved December 12, 2006, extended the contract to December 23, 2007. Amendment No. Four was approved October 9, 2007, increasing the contract amount by $75,000, extended the contract to December 23, 2008, and allowed for treatment of the south holding pond for a three-month period. Amendment No. Five approved December 9, 2008, in an amount not-to-exceed $60,000 allowed continuation of the introduction of a microbial solution into excess sludge stored in the northwest and northeast storm water holding ponds for a cost of $30,000 for the first six months and $5,000 per month on a month-to-month basis thereafter not-to-exceed a twelve (12) month period. Amendment No. Six has the same terms and extends the contract until December 23, 2010. The amendment has been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the amendment. Copies of an advisory memorandum, amendment, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to approve or reject Amendment No. Six to Contract No. K-0304-65 with Sorce, Inc., in an amount not-to-exceed $60,000 and extending the contract to December 23, 2010; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

office memorandum

**DATE:** November 17, 2009

**TO:** Norman Utilities Authority

**FROM:** Ralph Arnett, Utilities Superintendent RA

**SUBJECT:** Agenda Item: Amendment No. 6 to Contract K-0304-65
Wastewater Sludge Reduction

**Background:**

The discharge of total suspended solids into the Canadian River from the Wastewater Treatment Plant (WWTP) has decreased ten fold since the new activated sludge treatment process was placed into service in 2000. Consequently, the quantity of sludge requiring treatment has significantly increased. Staff has worked diligently to find cost effective means to treat and dispose of the excess sludge volume, until a permanent means is in place. Due to the higher sludge volume and periodic inclement weather, outside contractors have been hired periodically to assist staff in thickening and then disposal of excess sludge by land application. Most recently, the NUA considered Contract K-0809-132 with Nutri-Ject Systems to clean out and land apply treated sludge remaining in anaerobic digester #1 at a unit cost of $0.2956 per gallon.

On October 14, 2003, the NUA approved Contract K-0304-65 with Sorce, Inc., a sole source vendor, to introduce a microbial solution into excess sludge stored in the storm holding ponds at a cost of $60,000/year. The initial contract was successful in significantly reducing the volume of stored sludge prior to land application and staff has been pleased with the outcome of this contract. Previous amendments to Contract K-0304-65 have extended the contract for an additional 57 months through December 23, 2009 at a cost of $5,000 per month. Over the last 9 months, the stored sludge volume was reduced by 10.77 MG which translates into a savings of $287,676 in sludge removal costs. Considering the monthly cost of this contract, the net savings over this period is $242,676.

On March 27, 2007, the NUA approved Contract K-0607-38 with Walters-Morgan Construction, Inc., to construct the WWTP Sludge Handling Project. Final acceptance of the project is taking longer than anticipated due in part to equipment programming changes and warranty work. Until WWTP staff is able to consistently utilize the new thickening and dewatering centrifuges, in addition to gradually acclimating the digester microbial population to increased solids loading, continued use of this microbial solution is expected to be necessary.

**Discussion:**

Amendment No. 6 to Contract K-0304-65 authorizes Sorce, Inc. to continue introduction of a microbial solution into excess sludge stored in the NW and NE Storm Water Holding Ponds at a cost of $30,000 for the first six-months (January 2010 – June 2010), and $ 5,000 per month on a month-to-month basis thereafter, not to exceed a 12 month period. Amendment No. 6 to Contract K-0304-65 will be funded from WWTP account 032-5545-432.41-21 (Biosolids Removal).

**Recommendation:**

Staff recommends approval of Amendment No. 6 to Contract K-0304-65 with Sorce, Inc., in the maximum amount of $60,000.

Reviewed by: Mark Daniels; Utilities Engineer
Reviewed by: Ken Komiske, Utilities Director
Reviewed by: Clint Mercer, Municipal Accountant
Reviewed by: Anthony Francisco, Finance Director
Reviewed by: Jeff Bryant, City Attorney KW/JHB
Reviewed by: Steve Lewis, City Manager

# Professional Service Agreement

THIS EXTENSION AND AMENDMENT TO PROFESSIONAL SERVICE AGREEMENT (collectively with all exhibits, supplements and other documents attached hereto ("Agreement"), is entered into this _____ day of _____, 2009 by and between Sorce Inc., a Tennessee corporation ("Sorce"), and Norman Utilities Authority, Norman, Oklahoma ("NUA").

WHEREAS, NUA has entered into the Professional Service Agreement with Sorce dated October 14, 2003 and expired on December 22, 2004.

WHEREAS, NUA has entered into four extensions of that Professional Service Agreement with Sorce continuing services through December 22, 2009.

WHEREAS, NUA desires to continue to obtain from Sorce, and Sorce desires to continue to provide to NUA, by extending the term of original and extension agreement subject to the amendments contained herein.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the receipt and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

Effective on the date of NUA approval, Exhibit A to the agreement will be replaced with the Revised Exhibit A, attached hereto.

All other provisions relating to the Professional Service Agreement as previously modified, will continue to be effective and in full force.

IN WITNESS WHEREOF, this Agreement has been entered into to be effective as of the date first above written.

APPROVED BY CITY OF NORMAN LEGAL DEPARTMENT
BY _____ DATE 11/24/09

**Norman Utilities Authority:**

By: _____

Name: Cindy Rosenthal

Title: Chairman

Address: P.O. Box 370
Norman, Oklahoma 73070

ATTEST

Name: _____
Secretary

Contact Person: Ralph Arnett

E-Mail: ralph.arnett@ci.norman.ok.us
Telephone: (405) 292-9726
Facsimile: (405) 292-9735

**Sorce, Inc.:**

By: _____

Name: Michael Bowling

Title: President

Address: P. O. Box 1493
Hixson, Tennessee 37343

ATTEST

Name: Alan Wernick
Secretary

Contact Person: Martin Wernick

E-Mail: mwernick@sorceinc.net
Telephone: (423) 875-4183
Facsimile: (423) 875-0736

## Revised Exhibit A

**Location: City of Norman, OK Water Pollution Control Facility**

**Equipment**

NUA will provide three (3) bulk-mixing tanks, mixers and pumps for storage and application of Sorce's organisms. NUA will retain ownership of the equipment and will perform all maintenance and/or repair of the existing equipment.

**Products and Services Provided by Sorce for Labor, Nutrients and Organisms for Sludge Reduction**

**Fees**

**A. Maintenance**

1. The Maintenance Period will continue for a period of twelve (12) months beginning on December 23, 2008 9 (herein referred to as "Renewal Date").

2. Sorce will provide labor, organisms and nutrients to treat the Storm Holding Ponds (including Cell #1, otherwise known as the Northeast Pond, and Cell #2, otherwise known as the Northwest Pond) at the monthly rate of $5,000, for a period of twelve months, beginning on the Renewal Date.

3. Not withstanding the provisions of the next section (4), NUA may terminate this agreement without cause at any time after June 22, 2010 by providing Sorce 30 days written notice.

4. NUA may also terminate the agreement at the end of each Interim Maintenance Performance Period as described in item A(6) only in the event that Minimum Maintenance Performance levels as described in item A(7) are not achieved in the treatment of the Primary Treatment Pond as described in item A(5). NUA will notify Sorce in writing of its intent to terminate the agreement within seven (7) days following the last day of the Interim Maintenance Performance Period in which Minimum Maintenance Performance Levels are not achieved. The NUA agrees to pay Sorce all fees for services provided through the expiration of this agreement or if terminated earlier, the end of Interim Maintenance Performance Period which was the basis of the NUA of Norman's termination of the agreement.

5. The Primary Treatment Pond is designated as Cell #1. NUA may designate Cell #2 as the Primary Treatment Pond effective as of the end of any Interim Maintenance Performance Period, with 30 days written notice to Sorce. The Secondary Treatment Pond will be defined as the Cell not designated as the Primary Treatment Pond.

6. The first Interim Maintenance Performance Period will begin on the Renewal Date and extend for a period of three (3) months. Each of the three (3) subsequent Interim Maintenance Performance Periods will begin on the day following the last day of the previous Interim Maintenance Performance Period and extend for a period of three (3) months.

7. The Minimum Maintenance Performance Level, defined as the aggregate Free Water described in item A(6), decanted from the pond is at least the sum of each of the products of:

    a. Initial sludge levels at the beginning of the Interim Maintenance Performance Period times fifteen percent (15%) by volume.
    b. Influent accumulating during the Interim Maintenance Performance Period times forty-five percent (45%) by volume.

8. Free Water is defined as water that has separated from the sludge and is available to be decanted from the pond, containing no more than 2,000 ml/l of suspended solids.

9. Diffused aeration shall be operated on a continuous basis during the Interim Maintenance Performance Periods. Diffused aeration will be terminated at least seven (7) days and no more than fourteen (14) days prior to the decanting date. The pond(s) will not be decanted more than three (3) times during the Interim Maintenance Performance Period.

10. The initial sludge level as of the Renewal Date will be equal to the total gallons contained in the Primary Treatment Pond as of the end of the day immediately preceding the Renewal Date. In the event that the NUA re-designates the Primary Treatment Pond as provided in item 4, the initial sludge level will be equal to the total gallons contained in the newly designated Primary Treatment Pond as of the end of the day immediately preceding the date the cell will be treated as the Primary Treatment Pond.

11. Sorce recommends, but does not require that influent to the Primary Treatment Pond during each of the Interim Maintenance Performance Periods, shall equal or exceed thirty percent (30%) of initial sludge levels established at the beginning of the Interim Maintenance Performance Period. However, all influent to the pond will be terminated fourteen (14) days prior to the final decanting date of the Interim Maintenance Performance Period. There are no requirements or restrictions for aeration or decanting related to the Secondary Treatment Pond. NUA will perform all procedures for the decanting of Free Water from Ponds.

12. The source of influent to the Primary Treatment Pond will be the plant's primary and/or secondary clarifiers. However, during each Interim Maintenance Performance Period, NUA will be entitled to transfer no more than 50% of total influent to the Primary Treatment Pond from the Secondary Treatment Pond and South Lagoon. Influent transferred from the South Lagoon will not exceed 10% of total influent to the Primary Treatment Pond during any Interim Maintenance Performance Period.

13. All amounts transferred from the Secondary Treatment Pond to the Primary Treatment Pond will be considered as an increase to the initial sludge level of the Primary Treatment Pond for determining the Minimum Maintenance Performance Level described in item 6 above.

14. NUA will provide Sorce at least twenty-four (24) hour notice, via phone or email, of its intent to decant Free Water, the planned date on which diffused aeration will be terminated and the planned date/time that decanting of Free Water will begin.

PURCHASE REQUISITION NBR: 0000165851

STATUS: DIVISION APPROVAL

REQUISITION BY: LENGLETT/BIOSOLIDS

REASON: MICROBIAL SOLUTION FOR WWTP EXCESS SLUDGE

DATE: 12/16/09

SHIP TO LOCATION: UD-WASTE WATER TREATMENT

SUGGESTED VENDOR: 6725 SORCE INCORPORATED

DELIVER BY DATE: 12/30/09

| LINE NBR | DESCRIPTION | QUANTITY | UOM | UNIT COST | EXTEND COST | VENDOR PART NUMBER |
|---|---|---|---|---|---|---|
| 1 | MICROBIAL SOLUTION INTO WWTP EXCESS SLUDGE<br>CONFIRM PO, DO NOT MAIL.<br>**********8<br>AMENDMENT NO. 6 TO CONTRACT NO. K-0304-65<br>COMMODITY: SERVICES<br>SUBCOMMOD: MAINTENANCE CONTRACTS | 60000.00 | DOL | 1.0000 | 60000.00 | |

REQUISITION TOTAL: 60000.00

A C C O U N T  I N F O R M A T I O N

| LINE # | ACCOUNT | | PROJECT | % | AMOUNT |
|---|---|---|---|---|---|
| 1 | 03255454324121 | Business Services<br>Sludge Removal | | 100.00 | 60000.00 |
| | | | | | 60000.00 |

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

AMENDEMENT NO. 6 TO CONTRACT NO. K-0304-65
CONTINGENT ON COUNCILS APPROVAL ON 12/22/09

13. ITEM: AMENDMENT NO. ONE TO CONTRACT NO. K-0506-82: A SUPPLEMENTAL AGREEMENT TO A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION (ODOT) FOR FEDERAL-AID PROJECT NO. TCSP-0H68(007) DC, STATE JOB NO. 22670(04) OUTLINING THE RESPONSIBILITIES OF ODOT AND THE CITY OF NORMAN FOR THE ROBINSON STREET GRADE SEPARATION PROJECT.

INFORMATION: City Council, in its meeting of October 25, 2009, approved Contract No. K-0506-82 with ODOT for the Robinson Street Grade Separation Project. Amendment No. One prepared by ODOT addresses the responsibilities of the City and ODOT. The above-described amendment has been examined by the Assistant City Attorney and found to be in order and proper as to form. The construction project is funded 80% by federal funding and requires 20% local funds. The engineer's estimate for the project is $17,359,147 with ODOT's share being $14,019,544 and the City's share being $3,339,603. Staff recommends approval of the contract and adoption of the resolution. Copies of an advisory memorandum, location map, amendment, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject Amendment No. One to Contract No. K-0506-82 with the Oklahoma Department of Transportation; and, if approved, authorize the execution thereof and direct payment in the amount of $3,339,603 to ODOT for the City's 20% share.

ACTION TAKEN: _____

office memorandum

**Date:** December 8, 2009

**To:** Honorable Mayor and Councilmembers

**From:** John Clink, Capital Projects Engineer JC

**Subject:** Agenda Item – 1. Approval of Amendment No. 1 to Contract No. K-0506-82, a Project Agreement with the Oklahoma Department of Transportation for the Robinson Street Grade Separation Project Oklahoma Department of Transportation Project No. TCSP-0H68 (007) DC, Job No. 22670(04)

BACKGROUND:

The Robinson Street Underpass Project is a General Obligation Bond Project that was approved by the voters in March, 2005. The project boundaries are approximately 500 feet west of Flood Avenue to 500 feet east of Stubbeman Avenue. The City secured federal funding for the project from four sources: (1) the Transportation and Community and System Preservation (TCSP) Program, (2) two line items in the SAFETEA-LU legislation, which was signed into law by the President of the United States in 2005, (3) Association of Central Oklahoma Governments (ACOG) and (4) Stimulus Funding.

On October 25, 2005, City Council approved Contract K-0506-82, a project agreement with the Oklahoma Department of Transportation (ODOT) in order to secure federal funds for this project. The City's share of the project cost is for design, right-of-way acquisition, utility relocation and approximately 20 percent of the construction. The project will remove the current at grade railroad crossing on Robinson Street by rebuilding Robinson Street underneath a new railroad bridge. This project will also provide additional turn lanes at the intersections of Flood/Robinson and Stubbeman/Robinson.

DISCUSSION:

Prior to letting a project for bid, ODOT requires the City of Norman to enter into a project agreement. To fulfill that obligation, ODOT has requested the City approve the attached contract amendment to the original 2005 agreement. The amendment addresses the responsibilities of the City and ODOT. The amendment was prepared by ODOT. Four (4) copies of the amendment must be executed. Staff has reviewed the amendment. The construction project is funded 80% by federal funding and 20% local funds. ODOT has billed the City for the local matching share. Based on the latest engineer's estimate, ODOT's share is $14,019,544 and the local match is $3,339,603 for a total of $17,359,147. Funds are available in the Capital Fund, Robinson Grade Separation Construction, (Account No. 050-9065-431.61-01) Project No. BP0203.

This allocation of funds relates to the cost of construction and construction administration only. A summary of the total project costs to date, compared to the original estimates, is as follows:

| | **Budget** | **Actual** |
|---|---|---|
| Design | $2,180,866 | $2,180,864 |
| Right-of-Way | $4,983,968 | $4,630,124 |
| Utilities | $854,000 | $695,536 |
| Construction | $17,924,000 | $17,359,147 * |
| Total | $25,942,834 | $24,865,671 |

*Estimated Construction Cost

The City's total estimated share of the Robinson Street Underpass Project is $10,846,099 (43.6%) while $ 14,019,572 (56.4%) will be paid from other federal and state funds. Of the City's share, $ 8,662,539 will be paid from bond funds.

The ODOT bid letting for this project is scheduled to occur on February 18, 2010. If favorable bids are received, the Oklahoma Highway Commission will award the contract on March 1, 2010. Construction is expected to begin on the project in May, 2010. The project will require 410 calendar days for completion or around June, 2011.

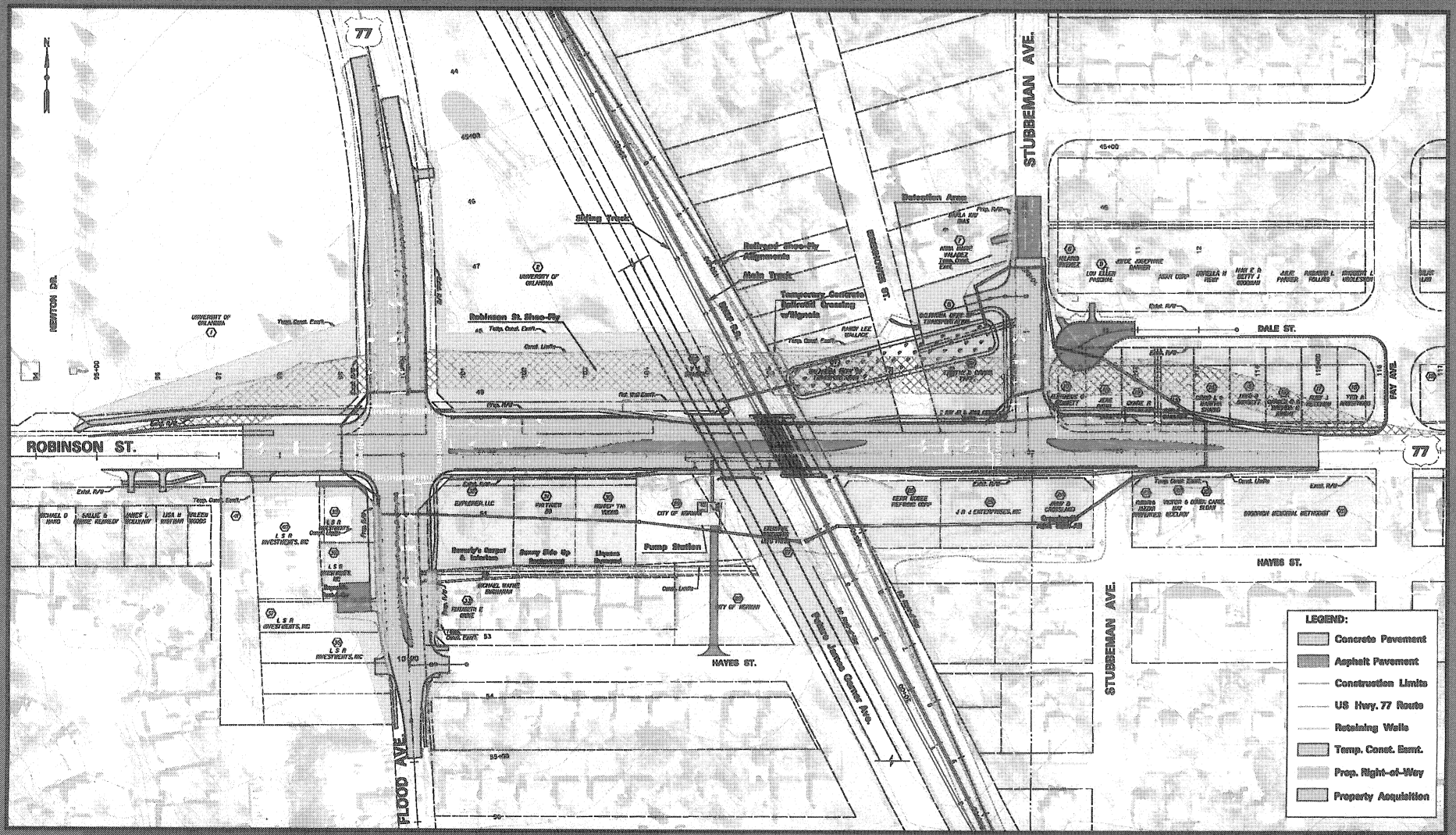
RECOMMENDATION NO. 1:

Staff recommends approval of Amendment No. 1 to Contract No. K-0506-82, a Project Agreement with ODOT for the Robinson Street Grade Separation Project and issuance of payment in the amount of $3,339,603.

JC
Attachments

Reviewed by: Bob Hanger, City Engineer BH
Shawn O'Leary, Public Works Director
Clint Mercer, Chief Accountant BY AT
Anthony Francisco, Director of Finance
Susan Connors, Director of Planning and Community Development SFC
Linda Price, Revitalization Manager
Jeff Bryant, City Attorney
Steve Lewis, City Manager

# Robinson Underpass Project



# SUPPLEMENTAL AND MODIFICATION AGREEMENT NO. 1

## State Job No.'s 22670(04), 22670(05), 22670(07)

## F.A. Project No.'s TCSP-0H68(007)DC, STP-STIM(504)HP, STPY-114C(259)HP

This Federal-Aid Program Project Agreement is made and entered into by and between the Oklahoma Department of Transportation, (hereinafter **DEPARTMENT**), and the City of Norman, Cleveland County, State of Oklahoma, (hereinafter **SPONSOR**) under the following terms and conditions for the intents and purposes as set forth herein.

**WITNESSETH**

**WHEREAS**: It is deemed necessary by the **DEPARTMENT** and **SPONSOR**, and in order to revise the scope of the original Federal-Aid Project Agreement; and

**WHEREAS**: Upon approval of the Agreement, the **DEPARTMENT** shall agree to advertise and let the contract for this project in the usual and customary legal manner. It is agreed that the project herein described is proposed to be financed as set forth in Section 5, and that this Agreement, all plans, specifications, estimates of costs, acceptance of work, payments and procedures in general hereunder are subject in all things at all times to all Federal laws, regulations, orders and approvals as may be applicable hereto; and

**NOW, THEREFORE**: the **DEPARTMENT** and **SPONSOR**, in consideration of the mutual covenants and stipulations as set forth herein, do mutually promise and agree as follows:

A. The following sections are hereby modified from the original Federal-Aid Project Agreement;

**Section 5:** **PROJECT FUNDING**

The **DEPARTMENT** has received approval from the Federal Highway Administration for the funding, with Federal-Aid funds, of the design and construction activities necessary to implement the Robinson Street / Railroad Separation Project. The **SPONSOR** agrees that funding for this project shall be provided in the following manner:

A. The **DEPARTMENT** agrees that Federal Aid Funds shall be used to provide $ 14,019,544.00 of the program eligible project costs and the **SPONSOR** agrees that **SPONSOR** funds shall be used to provide its obligation of $ 3,339,603.00 for a total project cost estimate of $ 17,359,147.00 including the estimated funding amounts as exemplified in Attachment "A", titled "Table 1, Estimated Project Budget". The **SPONSOR** further agrees to deposit its obligation with the **DEPARTMENT** prior to commencement of any project specific activities.

B. The **SPONSOR** will be responsible for all project cost overruns of the approved project estimate set forth in this agreement and will obligate additional funds as necessary to complete the project as planned.

C. It is understood by the **SPONSOR** that no State Transportation funds are to be utilized in any phase or aspect of this project. Only **SPONSOR** and Federal funds are to be utilized.

D. It is understood by the **SPONSOR** that the project costs as herein cited are estimates only and that final project costs will be adjusted after the project is accepted. The project will be subject to immediate audit and the final project cost will be revised to reflect the audited amount actually expended for construction of the project.

**Section 6:** **DELETED**

**Section 9:** **DELETED**

**Section 10:** **TERMINATION**

A. Upon written notice to the **SPONSOR**, the **DEPARTMENT** may terminate all or any part of this Agreement, at any time, without fault on the part of the **SPONSOR**.

B. At the discretion of the **DEPARTMENT**, all or any of the work of the **SPONSOR** may be abandoned or indefinitely postponed.

C. Under any of these conditions, the **SPONSOR** will be reimbursed for work completed and should this Agreement be terminated in whole or in part, the **SPONSOR's** total reimbursement will reflect such termination.

D. This Agreement may be terminated by any of the following conditions:

(i) By mutual Agreement and consent, in writing of both parties.

(ii) By the **DEPARTMENT** by written notice to the **SPONSOR** as a consequence of failure of the **SPONSOR** to perform the services set forth herein in a satisfactory manner.

(iii) By either party, upon the failure of the other party to fulfill its obligations as set forth herein.

(iv) By the **DEPARTMENT** for reasons of it's own and not subject to the mutual consent of the **SPONSOR** upon five (5) days written notice to the **SPONSOR**.

(v) By satisfactory completion of all services and obligations described herein.

**Section 18:** **PROJECT CONSTRUCTION**

It is further specifically agreed and understood between the **SPONSOR** and the **DEPARTMENT** that the project will be built in accordance with the plans and specifications and upon final acceptance by the **SPONSOR** and the **DEPARTMENT** of this project, the **SPONSOR** does hereby accept full, complete, and total responsibility for this project. The **SPONSOR** does not waive any rights against any contractor(s) with respect to defects, hidden or otherwise, in materials or workmanship.

A. The **DEPARTMENT** and/or its selected consultant shall provide competent supervision and inspection of the construction work including any testing of materials necessary and shall have representatives available for consultation with **SPONSOR** representatives to cooperate fully to the end of obtaining work in accordance with the approved plans and specifications and to the approval of the **DEPARTMENT**. It is further understood that all costs associated with these services shall be borne by the **SPONSOR**.

B. The **SPONSOR** agrees that the liquidated damages provisions in 23 CFR, Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the **SPONSOR** from reduction of Federal participation in accordance with this paragraph.

**Section 19:** **PROJECT MAINTENANCE**

The **SPONSOR** further agrees and warrants to the **DEPARTMENT** concerning maintenance of the completed project, that it will:

A. Assume any and all financial obligations for the operation, use, and maintenance of the project.

B. Aggressively pursue the implementation of any and all activities and/or support facilities related to the project through the use of all available resources and that the implementation of these future facilities is in no way contingent upon the receipt of further Federal-aid funding.

C. Periodically review the adequacy of the aforesaid project to insure the safety of the general public and should it determine that further modifications or improvements be required, the **SPONSOR** shall take such actions as are necessary to make such modifications or improvements.

D. Maintain all drainage systems and facilities constructed, installed, modified, or repaired in conjunction with this project or as may be otherwise necessary to ensure proper drainage for facilities constructed under the terms of this Agreement.

E. Maintain all right-of-way areas adjacent to road surfaces, including erosion control and periodic mowing of vegetation in a manner consistent with applicable codes, ordinances, and regulations.

F. Make ample provision annually for proper maintenance of items heretofore delineated as the responsibility of the **SPONSOR**, including the provision of competent personnel and adequate equipment, and specifically, to provide all required special maintenance of the project during the critical period immediately following construction.

G. Maintain all curbs and driveways abutting road surfaces constructed under the terms of this Agreement and all sidewalks adjacent therto.

Keep all permanent right-of-way shown on said plans free from any encroachment and take immediate action to effect the removal of any encroachments.

**Section 20:** **COVENANT AGAINST CONTINGENT FEES**

A. The **SPONSOR** represents that they have not employed or retained any company or person specifically to solicit or secure this agreement, and that he has not paid or agreed to pay any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this agreement.

B. For breach or violation of this representation, the **DEPARTMENT** shall have the right to annul this Agreement without liability.

**IN WITNESS WHEREOF**, the Deputy Director of the **DEPARTMENT** of Transportation, pursuant to authority vested in him, has hereunto subscribed his name as Deputy Director of the **DEPARTMENT** of Transportation and the **SPONSOR** has executed same pursuant to authority prescribed by law.

The **SPONSOR** on this ____ day of _____ , 20___, and the **DEPARTMENT** on the ____ day of _____ , 20___ .

**CITY OF NORMAN**

APPROVED AS TO FORM
AND LEGALITY

_____
City Attorney

_____
Mayor

ATTEST:

_____
City Clerk (Seal)

**STATE OF OKLAHOMA**
**DEPARTMENT OF TRANSPORTATION**

APPROVED AS TO FORM
AND LEGALITY

_____
General Counsel

_____
Chief Engineer

Recommended for Approval:

_____
Special Projects Branch Manager

## STATUTORY AFFIDAVIT

State of _____ )
)
CITY of _____ )

Affiant, _____ of lawful age, and having been first duly sworn, on oath says:

1. (S)he is the duly authorized agent of _____ (CITY), the county under the contract which is attached to this statement, for the purpose of certifying the facts pertaining to the giving of things of value to government personnel in order to procure said contract;
2. (S)he is fully aware of the facts and circumstances surrounding the making of the contract to which this statement is attached and has been personally and directly involved in the proceedings leading to the procurement of said contract;
3. Neither the CITY nor anyone subject to the CITY's direction or control has paid, given or donated or agreed to pay , give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached; and

The CITY further certifies that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said contract.

If this contract is for professional services **and** if the final product is a written proposal, report, or study, the CITY further certifies that (s)he has not previously provided the state agency with a final product that is a substantial duplication of the final product of the proposed contract.

_____ _____
Signature Date

_____ _____
Printed Name Title

State of _____

County of _____

Subscribed and sworn before me this _____ day of _____, 20___.

My Commission Expires: _____
Notary Public

My Commission Number:_____

**Attachment "A"**

**Table 1**
**Estimated Project Budget**
**Robinson Street / Railroad Separation Project**

| Item | | Estimated Cost |
|---|---|---|
| **JP# 22670(04)** | | |
| - 2005 TCSP | 100% Federal Funds | $ 661,133.00 |
| - 2006 TCSP | 80% Federal Funds | $ 187,027.00 |
| | 20% SPONSOR Funds | $ 46,757.00 |
| - ACOG | 80% Federal Funds | $ 343,907.00 |
| | 20% SPONSOR Funds | $ 85,977.00 |
| **JP# 22670(05)** | | |
| - STIM | 80% Federal Funds | $ 1,339,297.00 |
| | 20% SPONSOR Funds | $ 334,824.00 |
| - HPP | 80% Federal Funds | $ 7,559,161.00 |
| | 20% SPONSOR Funds | $ 1,889,790.00 |
| - ACOG | 80% Federal Funds | $ 1,529,019.00 |
| | 20% SPONSOR Funds | $ 382,255.00 |
| **JP# 22670(07)** | | |
| - 2008 TCSP | 80% Federal Funds | $ 315,903.00 |
| | 20% SPONSOR Funds | $ 78,976.00 |
| - HPP | 80% Federal Funds | $ 1,439,840.00 |
| | 20% SPONSOR Funds | $ 359,960.00 |
| - ACOG | 80% Federal Funds | $ 644,257.00 |
| | 20% SPONSOR Funds | $ 161,064.00 |
| | Total Estimate | $ 17,359,147.00 |
| | Federal Funds | $ 14,019,544.00 |
| | SPONSOR Funds | $ 3,339,603.00 |

PURCHASE REQUISITION NBR: 0000165659

REQUISITION BY: JOHN CLINK

STATUS: ALL ITEMS ON ORDER
REASON: CONTRACT AMENDMENT NO 1

DATE: 12/10/09

SHIP TO LOCATION: PUB WKS- ENGINEERING

SUGGESTED VENDOR: 1514 OKLAHOMA DEPT OF TRANSPORTATIO

DELIVER BY DATE: 12/10/09

---

| | | | | | |
|---|---|---|---|---|---|
| 1 | AMENDMENT NO. 1 TO CONTRACT K-0506-82<br>COMMODITY: CONSTRUCTION SERVICES, HE<br>SUBCOMMOD: CONSTRUCTION, STREET (MAJ | 3339603.00 | EA | 1.0000 | 3339603.00 |

REQUISITION TOTAL: 3339603.00

---

A C C O U N T  I N F O R M A T I O N

| LINE # | ACCOUNT | | PROJECT | % | AMOUNT |
|---|---|---|---|---|---|
| 1 | 05090654316101 | Capital Projects Construction | BP0203<br>Robinson RR Grade Separtn | 100.00 | 3339603.00 |
| | | | | | 3339603.00 |

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

CONTINGENT UPON COUNCIL APPROVAL ON 12/22/09

14. ITEM: CONSIDERATION OF THE FOLLOWING CONTRACTS:

CONTRACT NO. K-0910-105: A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND COX TMI WIRELESS, L.L.C., FOR THE LEASE OF A CELL TOWER SITE FOR PLACEMENT OF EQUIPMENT ON THE BROOKHAVEN WATER TOWER LOCATED AT 4151 WEST ROBINSON STREET FOR A FIVE-YEAR PERIOD.

CONTRACT NO. K-0910-106: A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND COX TMI WIRELESS, L.L.C., FOR THE LEASE OF A CELL TOWER SITE FOR PLACEMENT OF EQUIPMENT ON THE CASCADE WATER TOWER LOCATED AT 3199 36TH AVENUE N.W.

INFORMATION: Cox TMI Wireless, L.L.C. has requested leasing space on two City of Norman Water Towers, the Brookhaven Water Tower located at 4151 West Robinson Street and the Cascade Water Tower located at 3199 36th Avenue N.W. Staff has negotiated the term of the contract to be five years to renew two additional terms of five years each. The contracts lease for $1,200 per month to increase 3% annually on the anniversary date starting the second year. The above-described contracts have been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contracts. Copies of an advisory memorandum and contracts are included in the Agenda Book.

ACTION NEEDED: 1. Acting as the Norman Utilities Authority, motion to approve or reject Contract No. K-0910-105 with Cox TMI Wireless, L.L.C. for the lease of a cell tower site for placement of equipment on the Brookhaven Water Tower; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 2. Acting as the Norman Utilities Authority, motion to approve or reject Contract No. K-0910-106 with Cox TMI Wireless, L.L.C. for the lease of a cell tower site for placement of equipment on the Cascade Water Tower; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

office memorandum

DATE: December 10, 2009

TO: Honorable Mayor and Council Members

THROUGH: Anthony Francisco, Finance Director

FROM: Jennifer Gray, Telecommunications Administrator

RE: Agenda Item – Water Tower Lease

BACKGROUND

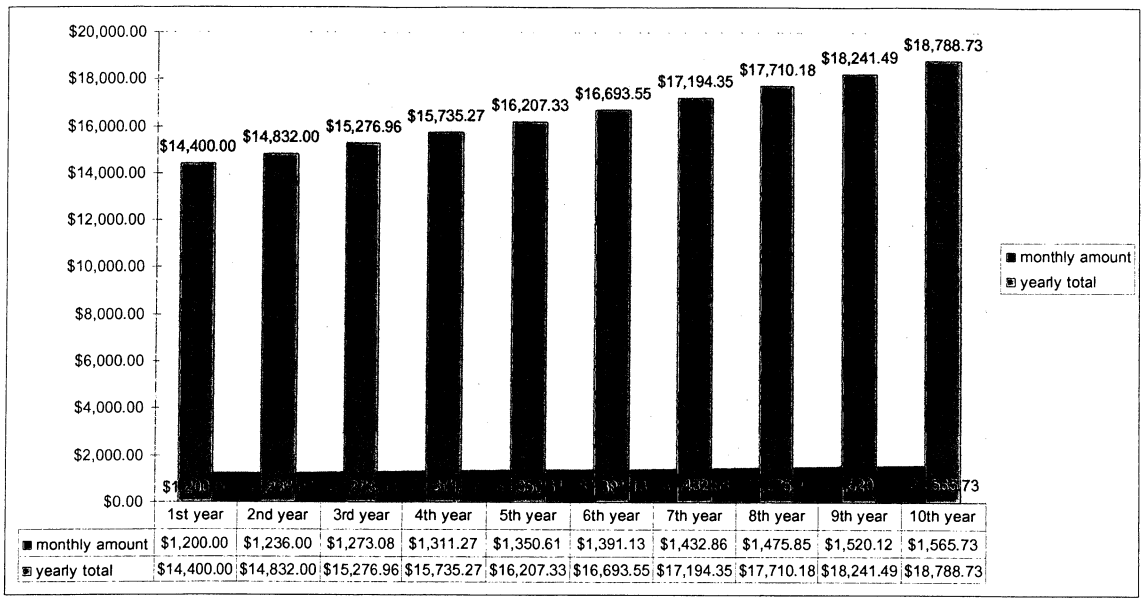
Cox TMI Wireless, LLC has inquired about leasing space on two of the City of Norman Water Towers. The towers they have inquired about are the Brookhaven Water Tower and the Cascade Water Tower. The Brookhaven tower has additional cellular vendors in place, but still has space available. The Cascade tower only houses City of Norman water equipment thus far.

DISCUSSION

Staff has negotiated with Cox TMI Wireless and is now recommending approval of Contracts K0910-105 & K0910-106. These contracts are comparable with other contracts the City of Norman has executed with other cellular phone providers. The contract includes set land premise and use, monthly lease terms of $1200 with a 3% increase annually on the anniversary date of the contract starting at the 2nd year, backfill and re-vegetation standards, and insurance requirements.

The initial term of the contract is five years. The contract shall renew two additional terms of 5 years each. Either party may give a 180 day written Notice of Release before the next term begins. A graph has been included below to show the increase from years 1 through 10.

Both water towers will have equipment mounted to the water towers and a shelter at the base of the water towers for Cox TMI Wireless equipment. All drawings and plans have been approved by City of Norman Utilities.




| | 1st year | 2nd year | 3rd year | 4th year | 5th year | 6th year | 7th year | 8th year | 9th year | 10th year |
|---|---|---|---|---|---|---|---|---|---|---|
| monthly amount | $1,200.00 | $1,236.00 | $1,273.08 | $1,311.27 | $1,350.61 | $1,391.13 | $1,432.86 | $1,475.85 | $1,520.12 | $1,565.73 |
| yearly total | $14,400.00 | $14,832.00 | $15,276.96 | $15,735.27 | $16,207.33 | $16,693.55 | $17,194.35 | $17,710.18 | $18,241.49 | $18,788.73 |

RECOMMENDATION

Staff recommends the approval of Contract K0910-105 and K0910-106 with Cox TMI Wireless, LLC to lease space for telecommunications equipment to be placed on the Robinson Water Tower. Rental payments will be received into the Water Fund, Water Towers (Account 031-0000-363-15-82).

Reviewed by: Steve Lewis, City Manager
Ken Komiske, Director of Utilities
Jeff H. Bryant, City Attorney
Gary Lowe, Information Technology Manager

# SITE LEASE AGREEMENT

**Cox Site Name: Norman FD Water Tank** **Cox Site ID #: OK150A**
**K-0910-105**

This Site Lease Agreement ("Agreement") is entered into as of _____ by Cox TMI Wireless, L.L.C., a Delaware limited liability company ("Tenant") and the Norman Utilities Authority, a public trust ("Owner"). Owner acknowledges receiving One Dollar ($1.00) and other sufficient consideration for entering into this Agreement.

**1. Premises and Use**. Owner owns the property described on **Exhibit A** attached ("Owner's Property"). Owner leases to Tenant the site (consisting of a portion of Owner's Property) described below:

☒ Land consisting of approximately 100 square feet for construction of:
☒ Shelters and/or base station equipment and
☒ Tower space at the 83.5 foot level on the tower for attachment of antennas;

generally in the location(s) shown on **Exhibit B** attached, as well as riser, conduit and other space required for cable runs to connect its equipment and antennas, and together with all necessary non-exclusive easements for vehicular and pedestrian access thereto, for placement of an underground grounding system, and for access to the appropriate source of electric, telephone and other utilities, in the discretion of Tenant (the "Site"). The Site may be used by Tenant for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, communications service facilities, including, without limitation, antennas and microwave dishes, air conditioned equipment shelters and/or base station equipment, cable, wiring, power sources (including permanent generators and fuel storage tanks), related equipment and structures (the "Facilities"). All of the Facilities will remain Tenant's personal property and are not fixtures. Any visual or textual representation of the Facilities on **Exhibit B** is illustrative only, and does not limit the rights of Tenant as provided for in this Agreement. Tenant will use the Site in a manner which will not disturb the occupancy of Owner's other tenants. Tenant will have access to the Site and Facilities 24 hours a day, 7 days a week to install, repair, replace, remove, modify or maintain its Facilities. Such access is subject to the terms and requirements as noted in Section 4 of this Agreement. The location of the equipment and property to be constructed and installed on the Leased Premises and on the water tower and Tenant's use of said premises and water tower shall in no way interfere with the Owner's use thereof and the location of such equipment and property shall be approved by the Director of Utilities of the City of Norman before being installed or constructed by Tenant. Tenant shall at its expense complete all make read work and install its equipment and antennas in accordance with the plans and specifications prepared by Tenant and submitted to Owner for approval. Owner shall have thirty (30) working days to review said construction plans and approve them, or in the alternative, to advise Tenant of necessary changes. Tenant shall not commence construction until said approval has been received for Owner. Tenant further agrees to comply with all applicable rules and regulations of the Federal Communications Commission and all applicable local building and electrical codes.

**2. Term**. This Agreement becomes effective on the date that both Owner and Tenant have executed this Agreement ("Effective Date"). Tenant's lease terms shall commence, at the end of the Due Diligence Period on the Term Commencement Date. The term of Tenant's lease and tenancy (the "Term") is 5 years, commencing on the Term Commencement Date which is defined as the date that the Tenant commences construction of the Facilities or within 90 days from the Effective Date, whichever is earlier. The Term will be automatically renewed for 2 additional terms of 5 years each (each a "Renewal Term"), unless Tenant or Owner provides the other with written notice of its intention not to renew not less than one hundred eighty (180) days prior to the expiration of the then-current five-year term. Tenant shall be allowed to conduct certain due diligence as described herein during the Due Diligence Period, defined as the time between the Effective Date and the Term Commencement Date. During the Due Diligence Period, Tenant will be permitted to enter Owner's Property to



Owner Initials:_____
Tenant Initials:_____

perform surveys, inspections, investigations and tests, including signal, topographical, geotechnical, structural and environmental tests to determine the physical condition, suitability and feasibility of the Site. Such access is subject to the terms and requirements as noted in Section 4 of this Contract. If Tenant determines, in its discretion, that the Site is not appropriate for Tenant's intended use (or if Tenant otherwise decides, for any reason or no reason, not to commence the lease Term), then Tenant may terminate this Agreement upon notice to Owner at any time prior to the end of the Due Diligence Period with the understanding that in such event, Tenant shall pay to Owner a lump sum termination fee in the amount of One Thousand Dollars and no/100 ($1,000.00). Upon termination of this agreement, Tenant shall restore, at its sole cost and subject to Section 11.1, the Site and Facility to its original condition excluding any and all reasonable wear and tear.

**3. Rent**. Starting on the Term Commencement Date and then on the first day of every month thereafter, Tenant will pay rent in advance in equal monthly installments of One Thousand Two Hundred Dollars and no/100 ($1,200.00). Rent for any partial months will be prorated. The Rent due for each year will be increased on the first day of each year by three percent (3%) of the monthly installment of rent payable during the previous year. If the Renewal Term commences on any day other than the first day of a calendar month, then the rent will not be increased until the first day of the first calendar month following the commencement of each Renewal Term. Owner may provide Tenant with an IRS approved W-9 form setting forth the tax identification number of Owner or of the person or entity to whom rent checks are to be made payable as directed in writing by Owner. Rent will be sent to the following address:

City of Norman
Attn: Accounts Receivable
P.O. Box 370
Norman, Oklahoma 73071

**4. Title and Quiet Possession**. Owner represents and warrants that: (a) it is the owner of Owner's Property; (b) it has rights of pedestrian and vehicular access from the nearest public roadway to the Site, which Tenant is permitted to use; (c) it has the right to enter into this Agreement; and (d) the person signing this Agreement has the authority to sign.

**4.1 Tenant Access**. Tenant may access the Site 24 hours a day, 7 days a week to install, repair, replace, remove, modify or maintain its Facilities. Tenant shall notify Owner 24 hours prior to accessing the Site. If Tenant must access the Site due to an emergency situation, Tenant shall notify Owner one hour in advance. Tenant shall be escorted at all times while upon Owner's property, unless an emergency situation arises wherein Tenant attempts on more than one occasion to contact Owner and is unable to do so. An "emergency situation" is defined as any event, situation or occurrence as a result of which Tenant requires immediate access to the Site in order to (i) prevent or minimize the risk of bodily injury or material property damage or (ii) repair damage to or malfunction of the Facilities that has triggered an internal emergency alert on the Facilities or which has materially limited the normal operations of the Facilities. When requesting access to Owner's property, Tenant shall contact Owner, regardless of day or time, at:

City of Norman
(405) 321-2182

Tenant's access to the tower or installation and construction of the Facilities shall not interfere with the maintenance or use of the Owner's Property, including, without limitation said water tower, by Owner. Subject to the provisions of Exhibit D hereto, the presence and operation of Tenant's Facilities must have minimal impact on the Owner's periodic maintenance work at the Owner's Property, including, but not limited to, tank inspections, painting and maintenance of Federal Aviation Administration required equipment. Tenant shall have the option to maintain a city issued time-stamp or other key to the facility. Tenant shall place a $200 deposit to the City for the issuance of such key. Upon completion or



Owner Initials:_____
Tenant Initials: BP

termination of the contract, the key must be returned within sixty (60) days for a refund on deposit. Tenant shall at all times comply with security and confidentiality regulations provided to them in effect at the Owner's property. Information belonging to the Owner shall be safeguarded by Tenant to the same extent as Tenant safeguards their information of like kind relating to its own operation.

**5. Assignment/Subletting**. Tenant will not assign or transfer this Agreement or sublet all or any portion of the Site without the prior written consent of Owner, which consent will not be unreasonably withheld or conditioned; provided, however, that Tenant will have the right, without notice to or consent of Owner, to sublease all or any portion of the Site or assign its rights under this Agreement in whole or in part to: (a) any entity acquiring substantially all of the assets of Tenant; or (b) any successor entity in a merger or consolidation involving Tenant. Owner will not be entitled to any additional rent or other fees for its review or approval.

**6. Notices**. All notices must be in writing and mailed via U.S. mail, certified, with return receipt requested and postage prepaid or when sent via overnight delivery service. Notices to Tenant are to be sent to Cox TMI Wireless, L.L.C., at 5775 Peachtree Dunwoody Road, Atlanta, GA 30342, Attn: Debbie Simmons with a mandatory copy to Tenant's Law Department, at 1400 Lake Hearn Drive, Atlanta, Georgia 30319, Attn.: Mark F. Padilla, Assistant General Counsel. Notices to Owner must be sent to the address shown underneath Owner's signature.

**7. Improvements.** Tenant may, at its expense, make improvements on and to the Site after providing 30 days notice to Owner of such intention and receiving the consent of Owner which consent shall not be unreasonably withheld or conditioned. Owner agrees to cooperate with Tenant with respect to obtaining any required zoning or other governmental approvals for the Site, the Facilities and contemplated use thereof. Upon termination or expiration of this Agreement, Tenant shall remove the above-ground Facilities; provided that Tenant shall restore Owner's property subject to terms in Section 11.1.

**8. Compliance with Laws**. Owner represents and warrants that Owner's Property (including the Site) is in substantial compliance with building codes and other laws, codes and regulations of applicable governmental authorities. Tenant must comply with all applicable laws relating to its possession and use of the Site.

**9. Interference**. Tenant shall resolve technical interference problems that the Facilities might cause with (i) other equipment located at the Site on the Effective Date, or (ii) Owner's equipment, (iii) when Tenant desires to add additional Facilities to the Site, any equipment that became attached to the Site between the Effective Date and such future date. Tenant shall not permanently or unreasonably interfere with existing or future Owner's use and/or public use of public rights-of-way and public properties. Likewise, Owner will not permit or suffer the installation of any equipment on Owner's Property after the Effective Date that: (a) results in technical interference problems with the Facilities, or (b) encroaches onto the Site; provided that said use or installation is not for a public use or purpose. Tenant represents and agrees that the installation and operation of its property and equipment shall not cause damage of any kind to Owner's water tower structure and that Tenant shall in no way interfere with the use, repair and/or maintenance of such tower by Owner.

**10. Utilities**. Tenant will pay for all utilities used by it at the Site. Owner grants to Tenant and the local utility companies (as appropriate) any easement(s) reasonably required by Tenant or the utility companies in order to provide utility service required by Tenant for its intended use of the Site throughout the initial Term and each Renewal Term. However, such easement is subject to the review of the Director of Finance. If there is a loss of electrical service at the Site, Tenant may, at its expense, install and maintain a temporary generator and fuel storage tank at the Site or on Owner's Property adjacent to the Site after providing adequate notice to Owner and receiving consent. Such consent will not be unreasonably withheld or conditioned.

**11. Termination**. Upon termination of this agreement, Tenant shall restore, at its sole cost and subject to Section 11.1, the Site and Facility to its condition immediately prior to Tenant's installation of its Facilities excluding reasonable wear and tear.

**11.1. Backfill and Revegetation.** Tenant shall promptly backfill all trenches, fill all holes caused by shrinkage or compaction, remove all excess dirt and shall eave all disturbed property in a solid and safe condition. The Tenant shall promptly restore all sodded areas to its original condition by placing slab sod on all disturbed areas and provide or arrange for regular watering until the sod is established. All such restoration shall be subject to the inspection and approval of Owner. If the Tenant shall fail to make any restoration, repairs or do any work required by the provisions of this Contract within ten (10) days after receipt of written notice from the Owner, then the Owner will have the right to make such restorations, repairs or do such work at the expense of the Tenant, and the Tenant shall reimburse the Owner for the cost and expense of such repairs within thirty (30) days of tender of a bill. However, if Tenant is prevented from restoring, repairing or performing such work because of conditions beyond their control, Owner, upon written request, shall be given a reasonable amount of time to perform said repairs or restoration as determined by the Owner before issuance of ten (10) days written notice.

**11.2 Removal of Facilities**. Tenant upon termination of this Agreement, shall within sixty (60) days, remove its personal property and restore the Leased Premises as nearly as reasonably possible to its original condition, reasonable wear and tear expected. In the event any equipment installed on the Leased Premises by Tenant is not timely removed, Owner will have the right to remove such equipment from the Leased Premises. Tenant agrees to be responsible to Owner for the costs of such removal.

**12. Default.** If either party is in default under this Agreement for a period of 30 days following receipt of written notice from the non-defaulting party, the non-defaulting party may pursue any remedies available to it against the defaulting party at law and in equity, including, but not limited to, the right to terminate this Agreement. If a non-monetary default cannot reasonably be cured within a 30-day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within the 30-day period and proceeds with due diligence to fully cure the default.

**13. Indemnity**. Except with respect to Hazardous Substances, which are defined and provided for in Section 14 below and any waiver of subrogation agreed to in Section 17, Owner and Tenant each indemnifies and agrees to defend the other against and holds the other harmless from any and all costs (including reasonable attorneys' fees), damages, claims of liability and losses (collectively, "Claims") which arise out of the negligence or intentional misconduct of the indemnifying party, its agents or employees. This indemnity does not apply to any Claims arising from the negligence or intentional misconduct of the indemnified party, its agents or employees. The indemnity obligations under this Section will survive termination of this Agreement for one year.

**14. Hazardous Substances**. Owner represents and warrants that it has no knowledge of any substance, chemical or waste on or affecting Owner's Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (collectively, "Hazardous Substance"). Notwithstanding any provision contained in this Agreement to the contrary, Owner will have sole responsibility for the identification, investigation, monitoring and remediation and cleanup of any Hazardous Substance discovered on Owner's Property. Owner agrees to indemnify, defend and hold harmless Tenant from any and all Claims relating to any Hazardous Substance present on or affecting Owner's Property prior to or on the Effective Date, unless the presence or release of the Hazardous Substance is caused by the activities of Tenant. Tenant represents and warrants it will not permit any chemical substance or hazardous waste to be brought upon, kept or used in or about Owners' property or premises by Tenant, its officers, representatives, agents, employees, contracts, or



Owner Initials:_____
Tenant Initials: BJB

invitees. If Tenant breaches this obligation, Tenant shall indemnify, defend and hold harmless Owner from and against all Claims arising out of Tenant's breach of this sentence. Owner will not introduce or use any Hazardous Substance on Owner's Property in violation of any applicable law, and Owner will indemnify, defend and hold harmless Tenant from and against all Claims arising out of Owner's breach of this sentence. The provisions of this Section will apply as of the Effective Date. The indemnity obligations under this Section will survive termination of this Agreement.

**15. Subordination**. This Agreement is subordinate to any mortgage or deed of trust of record against the Site as of the Effective Date.

**16. Property Taxes**. Tenant shall pay Owner any increase in Owner's real property taxes that is directly and solely attributable to improvements to the Site made by Tenant. Owner must pay all property taxes and assessments attributable to Owner's Property. Within 60 days after receipt of evidence of Owner's payment, Tenant will pay to Owner any increase in Owner's real property taxes which Owner reasonably demonstrates is directly and solely attributable to any improvements to the Site made by Tenant.

**17. Insurance**. During the initial Term and all Renewal Terms, Tenant shall procure and maintain commercial general liability insurance, with limits of not less than $5,000,000 to Owner with a Certificate of Insurance evidencing the required coverage. Tenant shall procure and maintain, and shall require its contractors and sub-contractors, to procure and maintain before commencing any installation and/or maintenance work at the Site, commercial general liability in the amount of at least $5,000,000 combined single limit per occurrence, as well as worker's compensation and employers liability insurance with a responsible insurance company rated at least A- by A.M. Best, providing for the payment of compensation in accordance with the laws of the state where the property is located and with a limit of at least $1,000,000 per occurrence for employers liability coverage. The worker's compensation coverage obtained by Tenant shall include a mutual waiver of subrogation in favor of the respective parties. Tenant shall each procure and maintain "all risk" property insurance on their respective property at the Site on a replacement cost basis. Further, Tenant and Owner each assume full risk of loss for any damage to its respective property. The limits of insurance required in this paragraph do not limit in any way the indemnification obligations under Section 13.

**18. Maintenance**. Tenant will be responsible for repairing and maintaining the Facilities and any other improvements installed by Tenant at the Site in a proper operating and reasonably safe condition; provided, however, if any repair or maintenance is required due to the acts or omissions of Owner, its agents, contractors or employees, Owner will promptly reimburse Tenant for the reasonable costs incurred by Tenant to restore the damaged areas to the condition which existed immediately prior thereto.

**19. Destruction or Condemnation**. If the Site or Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Tenant may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Owner forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If Tenant elects not to terminate this Agreement, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Site.

**19.1 Destruction Due to Tenant's Activities**. Tenant shall, at its expense, repair all damages to Owner's water tower which are a direct result of Tenant's activities. If Tenant fails to make such repairs within fifteen (15) working days after the damage occurs, Tenant shall have the right to make all necessary and reasonable repairs and Tenant shall reimburse Owner for its reasonable expense within thirty (30) days of Owner presenting to Tenant a statement showing the cost of such repairs.



Owner Initials:_____
Tenant Initials: AB

**20. Miscellaneous.** (a) This Agreement applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Agreement; (b) this Agreement is governed by the laws of the State of Oklahoma; (c) Owner agrees to allow Tenant to file a recordable Memorandum of Agreement in the form of **Exhibit C**, attached; (d) each party will execute, within 20 days after written request, an estoppel certificate or statement certifying that this Agreement is unmodified and in full force and effect or, if modified, describing such modification(s), and that the other party is not in default (beyond applicable cure periods), except as specified in the statement. The estoppel certificate may also certify the current rent amount and whether any rent has been paid in advance; (e) this Agreement (including the Exhibits and Riders) constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties. Any amendments to this Agreement must be in writing and executed by both parties; (f) if any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of the provision to persons other than those as to whom it is held invalid or unenforceable, will not be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (g) the prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Agreement is entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.

**21. Non-Binding Until Fully Executed.** This Agreement is for discussion purposes only and does not constitute a formal offer by either party. This Agreement is not and will not be binding on either party until and unless it is fully executed by both parties.

**22. Venue and Interpretation.** All parties hereto expressly agree that the venue of any litigation relating to or involving this Permit and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Cleveland County, Oklahoma. This contract will be interpreted in accordance with Oklahoma law.

The following Exhibits and Riders are attached to and made a part of this Agreement: Exhibits A, B, C and D.

**[The remainder of this page is left intentionally blank.]**



Owner Initials:_____
Tenant Initials: KB

**OWNER:**
**NORMAN UTILITIES AUTHORITY**
A Public Trust

Approved as to form and legality this 16th day of December, 2009.

Rebecca Trayer
City Attorney

Approved by the City Council of the City of Norman this _____ day of _____, 2009.

ATTEST:

_____ _____
Brenda Hall, City Clerk Cindy Rosenthal, Mayor

**TENANT:**
***Cox TMI Wireless, L.L.C.***
a Delaware limited liability company

By: [signature]
Name: Stephen Bye
Title: Vice President
Date: 12/15/09

*Attach Exhibit A – Legal Description of Owner's Property*
*Attach Exhibit B – Site Plan*
*Attach Exhibit C - Memorandum of Agreement Form*
*Attach Exhibit D – Temporary Relocation Right*

# EXHIBIT A
# TO SITE LEASE AGREEMENT

## Legal Description of Owner's Property

The Owner's Property is located at 4151 W. Robinson St., situated in the City of Norman, County of Cleveland, State of Oklahoma, commonly described as follows:

**Insert Legal Description**:

**PARENT TRACT DESCRIPTION**
*Part of the Southeast Quarter (SE1/4) of Section Twenty-two (22), Township Nine (9) North, Range Three (3) West of the Indian Meridian more particularly described as follows:*
*Beginning at the Southwest corner of said Southeast Quarter, thence North 00 °31'10" East a distance of 236.51 feet, thence East a distance of 220.41 feet, thence South a distance of 236.50 feet, thence West a distance of 222.55 feet to the point or place of beginning, containing 1.20 acres, more or less, and subject to a 33 foot statutory roadway right ot way along the South property line.*
*(WARRANTY DEED RECORDED IN BOOK 430, PAGE 127, DEED RECORDS OF CLEVELAND COUNTY, OKLAHOMA.)*

**LESSEE'S LEASE SITE DESCRIPTION**
*A tract of land lying in and being part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said tract being more particularly described as follows:*
*Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89 °35'01" E on the South line of said SE/4, a distance of 106.06 feet to a point on said South line; Thence N 00 °24'59" W perpendicular to said South line, a distance of 80.03 feet to a 1/2" iron rod with cap set for the Southwest corner, said corner being the Point of Beginning; Thence N 00 °28'53" W a distance of 10.00 feet to a ½" iron rod with cap set for the Northwest corner; Thence N 89 °31'07" E a distance of 10.00 feet to a ½" iron rod with cap set for Northeast corner; Thence S 00 °28'53" E a distance of 10.00 feet to a ½" iron rod with cap set for the Southeast corner; Thence S 89 °31'07" W a distance of 10.00 feet to the Point of Beginning, containing 100.00 square feet or 0.002 acres, more or less.*

**LESSEE'S ACCESS/UTILITY EASEMENT DESCRIPTION**
*A 12.00 foot wide easement for ingress, egress and utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said easement being 6.00 feet on each side of the following described centerline:*
*Commencing at a mag nail found for the Southwest corner of said SE/4; Thence 89 °35'01" E on the South line of said SE/4, a distance of 54.68 feet to a point on said South line; Thence N 00 °24'59" W perpendicular to said South line, a distance of 50.00 feet to the Point of Beginning on the North Right-of-way line of W. Robinson Street; Thence continuing N 00 °24'59" W perpendicular to said South line, a distance of 8.55 feet to a point; Thence N 89 °31'07" E a distance of 56.40 feet to a point; Thence N 00 °28'53" W a distance of 21.42 feet to the Point of termination on the South line of the above described 0.002 acre Lessee's lease Site. Side lines of said easement to be shortened or extended such as to begin on the North Right-of-way line of W. Robinson Street and terminate on the South line of said 0.002 acre Lessee's Lease Site.*

**LESSEE'S UTILITY EASEMENT DESCRIPTION**
*A 5.00 foot wide easement for utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed or Records of Cleveland County, Oklahoma; Said easement being 2.50 feet on each side of the following described centerline:*
*Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89 °35'01" E on the South line of said SE/4, a distance of 103.56 feet to a point on said South line; Thence N 00 °24'59" W perpendicular to said South line, a distance of 80.03 feet to the Point of Beginning, said point being 2.50 feet West of a ½" iron rod with cap set for the Southwest corner of the above described 0.002 acre Lessee's Lease Site; Thence N 20 °28'49" E a distance of 16.42 feet to a point; Thence N 20 °28'49" E a distance of 17.57 feet to the Point of termination at an existing electric transformer. Side lines of said easement to be shortened or extended such as to being 2.50 feet West of a ½" iron rod with cap set for the Southwest corner of said 0.002 acre Lessee's lease Site and terminate at an existing electric transformer.*



Owner Initials:_____
Tenant Initials:_____

**LESSEE'S UTILITY EASEMENT DESCRIPTION**

***A 5.00 foot wide easement for utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said easement being 2.50 feet on each side of the following described centerline:***

***Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89 °35'01" E on the South line of said SE/4, a distance of 118.16 feet to a point on said South line; Thence N 00 °24'59" W perpendicular to said South line, a distance of 101.78 feet to the Point of Beginning at an existing Cox box; Thence S 27 °09'19" W a distance of 10.43 feet to a point; Thence S 89 °31'07" W a distance of 6.75 feet to the Point of termination on the East Side line of the above described 5.00 feet Lessee's Utility Easement. Side lines of said easement to be shortened or extended such as to begin at an existing Cox box and terminate on the East Side line of said 5.00 feet lessee's Utility Easement.***



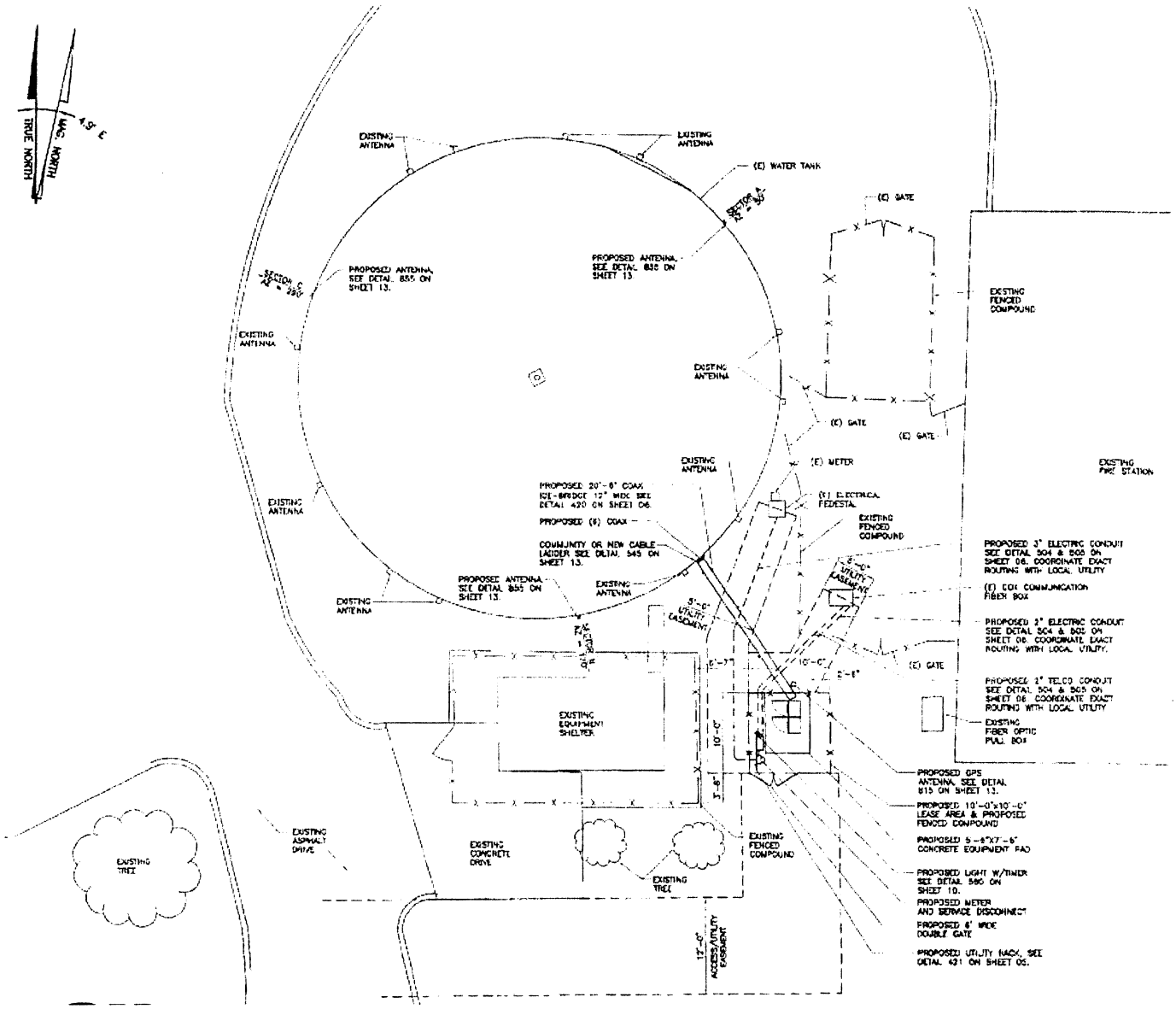
Owner Initials:_____
Tenant Initials:_____

# EXHIBIT B
# TO SITE LEASE AGREEMENT

## Site Plan

The Site is described as follows:

**Insert Site Plan**:



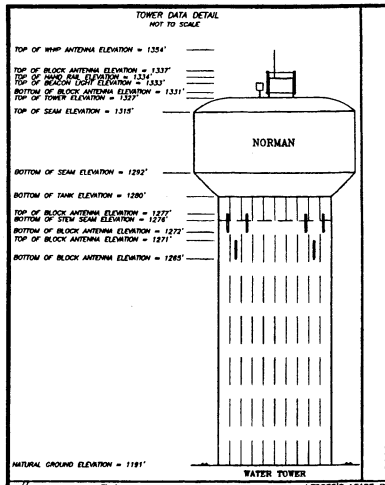


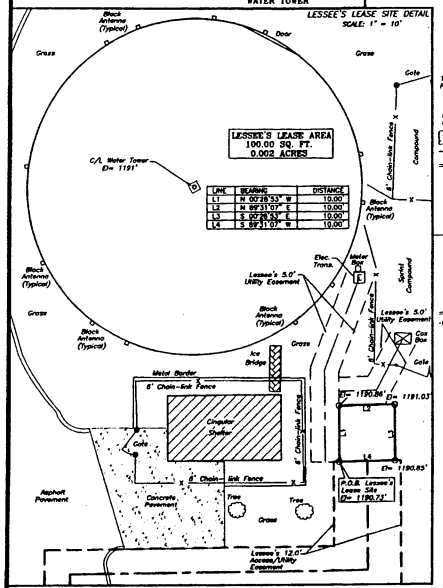

Owner Initials:_____
Tenant Initials:_____

COX SITE NAME: Norman FD Water Tank

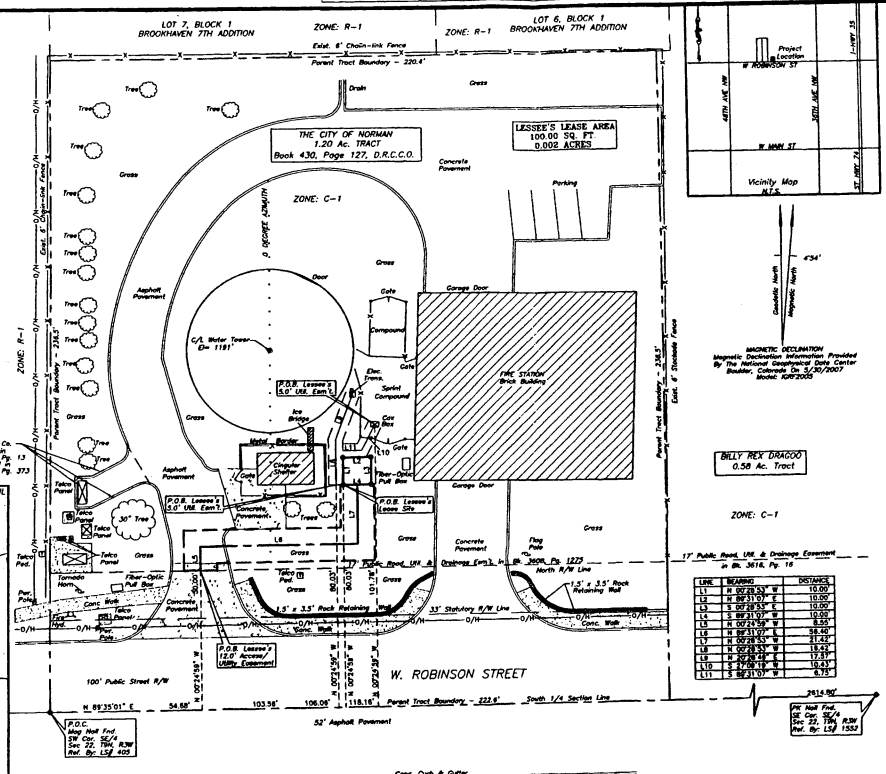
EXHIBIT B - TO SITE AGREEMENT - (Continued)

COX SITE ID #: OK150A




| LINE | BEARING | DISTANCE |
|---|---|---|
| L1 | N 00°28'53" W | 10.00 |
| L2 | N 89°31'07" E | 10.00 |
| L3 | S 00°28'53" E | 10.00 |
| L4 | S 89°31'07" W | 10.00 |




| LINE | BEARING | DISTANCE |
|---|---|---|
| L1 | N 00°28'53" W | 10.00 |
| L2 | N 89°31'07" E | 10.00 |
| L3 | S 00°28'53" E | 10.00 |
| L4 | S 89°31'07" W | 10.00 |
| L5 | N 00°24'59" W | 8.55 |
| L6 | N 89°31'07" E | 56.40 |
| L7 | N 00°28'53" W | 21.42 |
| L8 | N 00°28'53" W | 18.42 |
| L9 | N 00°28'49" E | 17.57 |
| L10 | S 27°09'19" W | 10.43 |
| L11 | S 89°31'07" W | 6.75 |

# SURVEY OF A LESSEE'S LEASE SITE LYING IN A PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION 22, T9N, R3W, I.M. NORMAN, CLEVELAND COUNTY, OKLAHOMA

## PROPERTY DESCRIPTION PER PREVIOUSLY RECORDED LEGAL

PARENT TRACT DESCRIPTION
Part of the Southeast Quarter (SE1/4) of Section Twenty-two (22), Township Nine (9) North, Range Three (3) West of the Indian Meridian more particularly described as follows:
Beginning at the Southwest corner of said Southeast Quarter, thence North 00°31'10" East a distance of 236.51 feet, thence East a distance of 220.41 feet, thence South a distance of 238.50 feet, thence West a distance of 222.55 feet to the point or place of beginning, containing 1.20 acres, more or less; and subject to a 33 foot statutory roadway right of way along the South property line. (WARRANTY DEED RECORDED IN BOOK 430, PAGE 127, DEED RECORDS OF CLEVELAND COUNTY, OKLAHOMA.)

## SURVEY OF A LESSEE'S LEASE SITE LYING IN A PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION 22, T9N, R3W, I.M. NORMAN, CLEVELAND COUNTY, OKLAHOMA

LESSEE'S LEASE SITE DESCRIPTION
A tract of land lying in and being part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said tract being more particularly described as follows:
Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89°35'01" E on the South line of said SE/4, a distance of 106.06 feet to a point on said South line; Thence N 00°24'59" W perpendicular to said South line, a distance of 80.03 feet to a 1/2" iron rod with cap set for the Southeast corner, said corner being the Point of Beginning; Thence N 00°28'53" W a distance of 10.00 feet to a 1/2" iron rod with cap set for the Northeast corner; Thence N 89°31'07" E a distance of 10.00 feet to a 1/2" iron rod with cap set for the Northeast corner; Thence S 00°28'53" E a distance of 10.00 feet to a 1/2" iron rod with cap set for the Southeast corner; Thence S 89°31'07" W a distance of 10.00 feet to the Point of Beginning, containing 100.00 square feet or 0.002 acres, more or less.

LESSEE'S ACCESS/UTILITY EASEMENT DESCRIPTION
A 12.00 foot wide easement for ingress, egress and utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said easement being 8.00 feet on each side of the following described centerline:
Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89°35'01" E on the South line of said SE/4, a distance of 54.68 feet to a point on said South line; Thence N 00°24'59" W perpendicular to said South line, a distance of 50.00 feet to the Point of Beginning on the North Right-of-way line of W. Robinson Street; Thence continuing N 00°24'59" W perpendicular to said South line, a distance of 8.55 feet to a point; Thence N 89°31'07" E a distance of 56.40 feet to a point; Thence N 00°28'53" W a distance of 21.42 feet to the Point of termination on the South line of the above described 0.002 acre Lessee's Lease Site. Side lines of said easement to be shortened or extended such as to begin on the North Right-of-way line of W. Robinson Street and terminate on the South line of said 0.002 acre Lessee's Lease Site.

LESSEE'S UTILITY EASEMENT DESCRIPTION
A 5.00 foot wide easement for utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said easement being 2.50 feet on each side of the following described centerline:
Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89°35'01" E on the South line of said SE/4, a distance of 103.58 feet to a point on said South line; Thence N 00°24'59" W perpendicular to said South line, a distance of 80.03 feet to the Point of Beginning, said point being 2.50 feet West of a 1/2" iron rod with cap set for the Southwest corner of the above described 0.002 acre Lessee's Lease Site; Thence N 00°28'53" W a distance of 18.42 feet to a point; Thence N 00°28'49" E a distance of 17.57 feet to the Point of termination at an existing electric transformer. Side lines of said easement to be shortened or extended such as to begin 2.50 feet West of a 1/2" iron rod with cap set for the Southwest corner of said 0.002 acre Lessee's Lease Site and terminate at an existing electric transformer.

LESSEE'S UTILITY EASEMENT DESCRIPTION
A 5.00 foot wide easement for utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said easement being 2.50 feet on each side of the following described centerline:
Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89°35'01" E on the South line of said SE/4, a distance of 118.16 feet to a point on said South line; Thence N 00°24'59" W perpendicular to said South line, a distance of 101.78 feet to the Point of Beginning at an existing Cox box; Thence S 27°09'19" W a distance of 10.43 feet to a point; Thence S 89°31'07" W a distance of 6.75 feet to the Point of termination on the East Side line of the above described 5.00' feet Lessee's Utility Easement. Side lines of said easement to be shortened or extended such as to begin at an existing Cox box and terminate on the East Side line of said 5.00 feet Lessee's Utility Easement.

SURVEYOR'S CERTIFICATION:
To: Cox TMI Wireless, LLC; Lawyers Title Insurance Corporation.
This is to certify that this map or plat and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA, ACSM and NSPS in 2005, and includes Items 2, 3, 4, 5, 6, 7(a), 8, 10, 11 (location of Utilities per visible, above-ground, site observation) 12, 13 and 17 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Oklahoma, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

Dated this 28th day of May 2009.

Professional Surveyor L.S. #405
Not Valid without the Signature and Seal of a Oklahoma Licensed Surveyor

Virgil C. Vaughn, OK. L.S. #405 Date

REGISTERED LAND SURVEYOR VIRGIL C. VAUGHN L.S. 405 OKLAHOMA

EASEMENTS:
The easements listed hereon were taken from the report of title conducted by:
LAWYERS TITLE INSURANCE CORPORATION
7130 Glen Forest Drive, Suite 300
Richmond, VA 23226
DATED: May 27, 2009
FILE NO: 11639472

2. Except the coal, oil, gas and other minerals underlying the surface of said land and all rights and easements in favor of the estate of said coal, oil, gas and other minerals; including, but not limited to, express or implied easements in, over and under that estate for the entry and removal of minerals, as recorded in Deed Book 172, Page 185. DOES AFFECT the Parent Tract as a Blanket Easement for mineral rights and is not plottable.

3. Right of Way Grant to Phillips Petroleum Company recorded December 14, 1955 at Book 248, Page 287. DOES AFFECT the Parent Tract as a Blanket Easement and exact location is not plottable with provided document.

4. Except the coal, oil, gas and other minerals underlying the surface of said land and all rights and easements in favor of the estate of said coal, oil, gas and other minerals; including, but not limited to, express or implied easements in, over and under that estate for the entry and removal of minerals, as recorded in Deed Book 377, Page 514. DOES AFFECT the Parent Tract as a Blanket Easement for mineral rights and is not plottable.

5. Easement in favor of Oklahoma Gas and Electric Company, an Oklahoma corporation, recorded on October 18, 1972 in Deed Book 543, Page 410. DOES NOT AFFECT the Parent Tract or the Lessee's Lease Site.

6. Easement to Southwestern Bell Telephone Company recorded August 1, 1995 at Book 2655, Page 13. EASEMENT MODIFICATION AGREEMENT, recorded on September 30, 1999 in Deed Book 3104, Page 373. DOES AFFECT the Parent Tract as shown hereon and DOES NOT AFFECT the Lessee's Lease Site or Utility Easement.

7. Grant of Easement to the City of Norman, a municipal corporation, recorded May 14, 2003 at Book 3808, Page 1275. DOES AFFECT the Parent Tract as shown hereon and DOES NOT AFFECT the Lessee's Lease Site.

8. Grant of Easement to the City of Norman, a municipal corporation, recorded May 28, 2003 at Book 3616, Page 18. DOES NOT AFFECT the Parent Tract or the Lessee's Lease Site as shown hereon.

NOTES CONCERNING SURVEY:
1: This survey is based on "REPORT OF TITLE"
PROVIDED BY: Lawyers Title Insurance Corporation
7130 Glen Forest Drive, Suite 300
Richmond, VA 23226
DATED: May 27, 2009
FILE NO: 11639472

2: Bearings shown hereon are based on the Oklahoma State Plane Coordinate System, South Zone, NAD83 Datum.

3: The elevations shown hereon are based on the NAVD88 Datum.

4: The latitude and longitude shown hereon are based on the NAD83 Datum and meet or exceed the minimum requirements for a FCC/FAA 1A survey which is defined as plus or minus 15 feet horizontal and plus or minus 3 feet vertical. This information was established and determined by GPS on 05/30/2007.

5: The Lessee's Lease Site shown on this survey DOES NOT lie within the 100 year plain and is located within the Flood Zone "X" per the Federal Emergency Management Agency (FEMA) as shown on the Flood Insurance Rate Map (FIRM), Community Panel Number 40027C 0260 H, which bears an effective date of September 26, 2008. Flood Zone determination is made through graphic plotting only and no other responsibility is herein assumed for accuracy of the base flood elevation or flood zone areas shown on the FIRM.

6: This survey does not provide any determination concerning wetlands, fault lines, toxic waste or any other environmental issues. Such matters should be directed to an expert consultant.

7: There may be additional buried or underground utilities in the area which the surveyor is unaware of and no liability for such is assumed herein. (OKLAHOMA 1-CALL SYSTEM 1-800-522-6543)

8: THIS IS NOT A BOUNDARY SURVEY OF THE PARENT TRACT.

Bearings Based on O.S.P.C.
Established by GPS on: 5/30/2007
Datum: Horz: NAD83 OK South Zone
Vert: Geoid 96

GRAPHIC SCALE
( IN FEET )
1 inch = 20 ft.

BEFORE YOU DIG !!!
CALL OKIE FOR LOCATION OF UNDERGROUND UTILITIES.
1-800-522-6543

911 ADDRESS: TO BE DETERMINED

| LOCATION/DESCRIPTION | LATITUDE | LONGITUDE | ELEVATION |
|---|---|---|---|
| TOWER NAD83/NAVD88 | 35°13'59.64" | 97°30'10.47" | 1191' |

Unless Noted, All Data Is Expressed In NAD83 & NAVD88

NOTE: 2C data taken from C/L existing tower as shown hereon.

NOTE: Compound area too flat for contours see lease site detail for SPOT ELEVATIONS

| NO. | REVISION | DATE | BY |
|---|---|---|---|
| 1. | FINAL SURVEY ISSUED TO CLIENT. | 06/15/09 | JLS |
| 2. | ADDED EASEMENTS AND LEGALS PER CLIENT. | 09/29/09 | JLS |

DATE SURVEYED: 05/27/09
DATE DRAFTED: 05/28/09
FIELD WORK: S.G.
OFFICE WORK: JLS
CHK'D BY: V.C.V.
JOB NO.: 3014.0010
SCALE: 1" = 20'

LEGEND
LIGHT POLE (U/G ELEC) — G — GAS LINE
LIGHT POLE (O/H ELEC) GAS METER
POWER POLE — T — TELEPHONE LINE
GUY LINE TELEPHONE RISER
—O/H— OVERHEAD ELECTRIC SANITARY SEWER MANHOLE
—U/G— U/G ELECTRIC —X— X— FENCE LINE
—W— WATER LINE STORM SEWER MANHOLE
WATER METER — D — STORM SEWER LINE
WATER VALVE 1/2" IRON ROD WITH CAP SET
IRON ROD FOUND

PREPARED BY:
H&S SURVEYING, INC.
Surveying and Telecommunication Company
SERVING THE CENTRAL U.S.
201 N. BICKFORD, EL RENO, OK. 73036
PH: (405) 262-0249 - FAX: (405) 262-5107
CA 1600 (LS) EXPIRES: 6/30/09
HSSURVEYING@AOL.COM

PREPARED FOR:
cox
Cox TMI Wireless, LLC

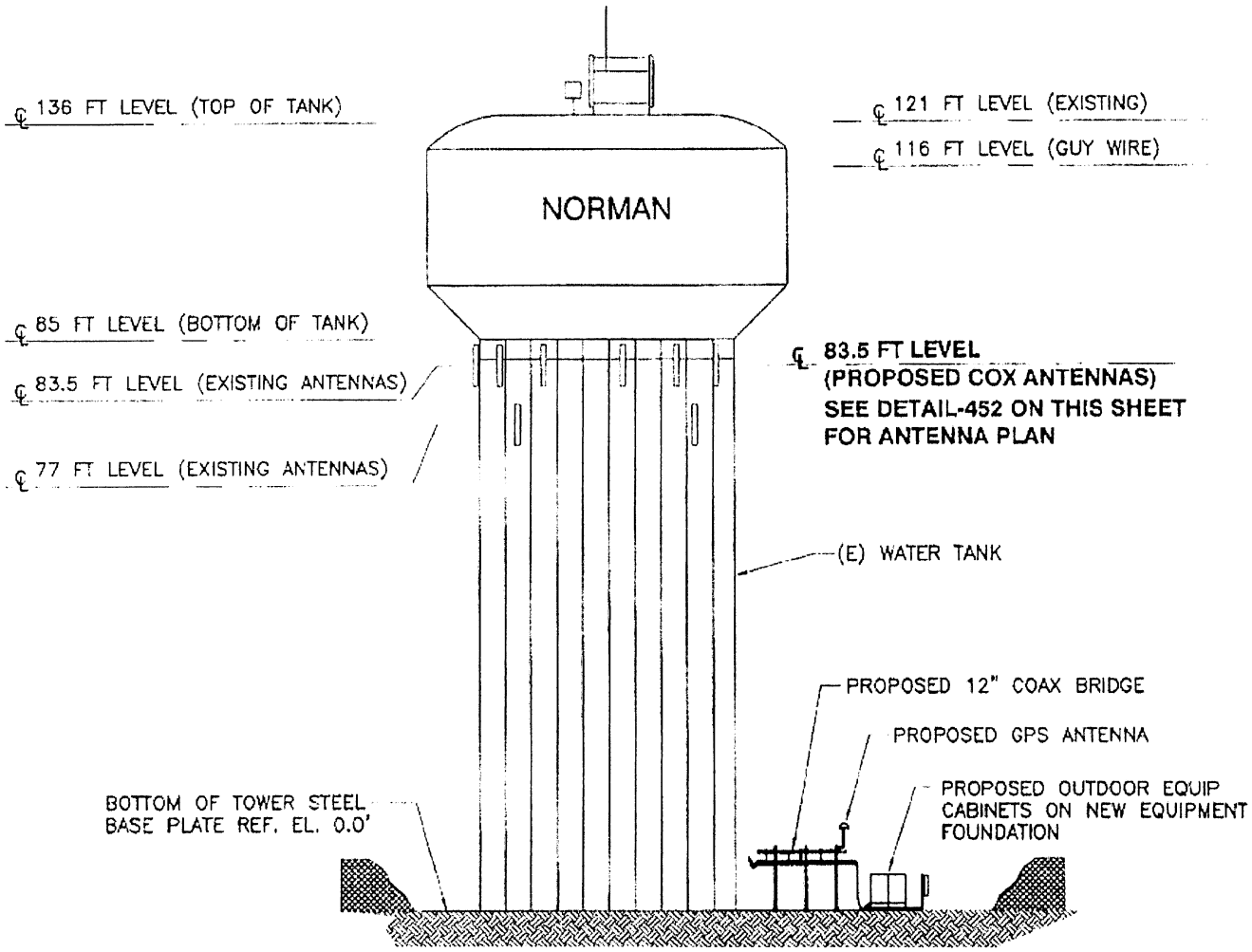
SURVEY OF:
OK150A / NORMAN FD WATER TANK
4151 W. ROBINSON, NORMAN, CLEVELAND COUNTY, OK 73071

PREPARED FOR:
COX TMI WIRELESS, LLC
5775 PEACHTREE DUNWOODY ROAD, ATLANTA, GA 30342

DRAWING NO.
S-1
SHEET 1 OF 1

OWNER INITIALS: _____ TENANT INITIALS: _____

**Site Plan – Elevation View**




**Note:** Owner and Tenant may, at Tenant's option, replace this Exhibit with an exhibit setting forth the legal description of the Site, or an as-built drawing depicting the Site. Any visual or textual representation of the Facilities is illustrative only, and does not limit the rights of Tenant as provided for in the Agreement. Without limiting the generality of the foregoing:

1. The Site may be setback from the boundaries of Owner's Property as required by the applicable governmental authorities.
2. The access road's width may be modified as required by governmental authorities, including police and fire departments.
3. The locations of any access and utility easements are illustrative only. Actual locations may be determined by Tenant and/or the servicing utility company in compliance with local laws and regulations.

**EXHIBIT C**
**TO SITE LEASE AGREEMENT**

**Memorandum of Agreement**

~~~THIS MOA NOT FOR EXECUTION~~~

This Memorandum of Agreement ("Memorandum") dated _____, 20__, evidences that a Site Agreement (the "Agreement") dated _____, 20___ (the "Effective Date"), was made and entered into between Norman Utilities Authority , a Public Trust, ("Owner") and Cox TMI Wireless, LLC, a Delaware limited liability company ("Tenant" or "Tenant").

The Agreement provides in part that Tenant has the right to enter upon certain real property owned by Owner and located at 4151 W. Robinson St., situated in the City of Norman, County of Cleveland, State of Oklahoma, as further described in the Agreement (the "Site") for the purpose of performing investigations and tests and, upon finding the Site appropriate, to lease the Site for the purpose of installing, operating and maintaining a communications facility and other improvements. The Site is further described in Exhibit A attached hereto.

This Agreement becomes effective on the date that both Owner and Tenant have executed this Agreement ("Effective Date"). Tenant's lease terms shall commence, at the end of the Due Diligence Period on the Term Commencement Date. The term of Tenant's lease and tenancy (the "Term") is 5 years, commencing on the Term Commencement Date which is defined as the date that the Tenant commences construction of the Facilities or within 90 days from the Effective Date, whichever is earlier. The Term will be automatically renewed for 2 additional terms of 5 years each (each a "Renewal Term"), unless Tenant or Owner provides the other with written notice of its intention not to renew not less than one hundred eighty (180) days prior to the expiration of the then-current five-year term. Tenant shall be allowed to conduct certain due diligence as described herein during the Due Diligence Period, defined as the time between the Effective Date and the Term Commencement Date.

The parties have executed this Memorandum as of the day and year first above written.

**OWNER**
*Norman Utilities Authority*
A Public Trust

By: _____

Name: _____

Title: _____

Address: _____
_____
_____

Contact Phone Number: _____
Email Address: _____

Witness Name: _____ Witness Name: _____
Print: _____ Print: _____

**TENANT**
*Cox TMI Wireless, L.L.C.*
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Address: _____
_____
_____

Witness Name: _____ Witness Name: _____
Print: _____ Print: _____

*Attach Exhibit A - Site Description*
~~~

## OWNER NOTARY BLOCK:

STATE OF OKLAHOMA

COUNTY OF CLEVELAND

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐_____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER:

## TENANT NOTARY BLOCK:

STATE OF

COUNTY OF

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐_____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)



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# EXHIBIT A
# TO MEMORANDUM OF AGREEMENT

## Legal Description of Owner's Property

The Owner's Property is located at _____, situated in the _____, County of _____, State of _____, commonly described as follows:

**Insert Legal Description**:



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**EXHIBIT D**
**TO SITE LEASE AGREEMENT**

**Temporary Relocation Right**

A. If Owner needs to perform necessary maintenance to Owner's Property that reasonably requires the temporary relocation of the Facilities, Owner will have the right to temporarily relocate the Facilities or any part thereof, to an alternate location on Owner's Property or space within or on top of a building and necessary ground space for the installation and use of a Cell Site on Wheels ("COW"); provided, however, that any temporary relocation, including the return to the original location upon completion of the necessary maintenance, will: (a) be at Tenant's sole cost and expense; (b) be performed exclusively by Tenant or Tenant's contractors; (c) not result in any interruption of the communications service provided from the Facilities; (d) not impair or in any manner alter the quality of communications service provided from the Facilities; and (e) be done in strict accordance with the terms and conditions contained in paragraphs B, and C below.

B. Owner will exercise its temporary relocation right under paragraph A above by delivering written notice to Tenant at least 90 days prior to the proposed temporary relocation date (the "Notice"). In the Notice, Owner will propose an alternate site ("Temporary Relocation Site") on Owner's Property to which Tenant may relocate. Within 30 days Owner and Tenant must mutually agree to a proposed temporary relocation site. Failure of Tenant to approve a temporary relocation site within 30 days of notice from owner shall permit Owner to require Tenant to temporarily relocate its Facilities to another location. If the Tenant does not remove its facilities, the Owner shall have the right to either remove the Tenant's facilities by an approved contractor and bill Tenant for such costs or Tenant agrees that facilities left in place following notice of upcoming maintenance may receive sandblasting and painting related maintenance actions.

C. Owner and Tenant agree that the relocation is only temporary. Furthermore, Tenant does not relinquish any rights under this Agreement as they pertain to the Site and Facilities. Any reinstallation of the Facilities at the original Site will be at Tenant's sole cost and expense, subject to the terms and conditions in Section 11 detailing termination.



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Return recorded copy to:
Cox TMI Wireless, L.L.C.
1400 Lake Hearn Drive
Atlanta, GA 30319
Attn: Wireless Property Manager
Cox Site Name: Norman FD Water Tank
Cox Site ID #: OK150A
K-0910-105

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Memorandum") dated _____, 20__, evidences that a Site Agreement (the "Agreement") dated _____, 20___ (the "Effective Date"), was made and entered into between Norman Utilities Authority, a public trust ("Owner") and Cox TMI Wireless, L.L.C. ("Tenant").

The Agreement provides in part that Tenant has the right to enter upon certain real property owned by Owner and located at 4151 W. Robinson St., situated in the City of Norman, County of Cleveland, State of Oklahoma, as further described in the Agreement (the "Site") for the purpose of performing investigations and tests and, upon finding the Site appropriate, to lease the Site for the purpose of installing, operating and maintaining a communications facility and other improvements. The Site is further described in Exhibit A attached hereto.

This Agreement becomes effective on the date that both Owner and Tenant have executed this Agreement ("Effective Date"). Tenant's lease terms shall commence, at the end of the Due Diligence Period on the Term Commencement Date. The term of Tenant's lease and tenancy (the "Term") is 5 years, commencing on the Term Commencement Date which is defined as the date that the Tenant commences construction of the Facilities or within 90 days from the Effective Date, whichever is earlier. The Term will be automatically renewed for 2 additional terms of 5 years each (each a "Renewal Term"), unless Tenant or Owner provides the other with written notice of its intention not to renew not less than one hundred eighty (180) days prior to the expiration of the then-current five-year term. Tenant shall be allowed to conduct certain due diligence as described herein during the Due Diligence Period, defined as the time between the Effective Date and the Term Commencement Date.

The parties have executed this Memorandum as of the day and year first above written.

**[Remainder of this page is left intentionally blank.]**


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**OWNER:**
**NORMAN UTILITIES AUTHORITY**
A Public Trust

Approved as to form and legality this 16th day of December, 2009.

Rebecca Frazier
City Attorney

Approved by the City Council of the City of Norman this _____ day of _____, 2009.

ATTEST:

_____ _____
Brenda Hall, City Clerk Cindy Rosenthal, Mayor

**TENANT:**
***Cox TMI Wireless, L.L.C.***
a Delaware limited liability company

By: _____
Name: Stephen Bye
Title: Vice President
Date: 12/15/09

*Attach Exhibit A - Site Description*



Owner Initials: _____
Tenant Initials: _____

**OWNER NOTARY BLOCK:**

STATE OF

COUNTY OF

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐ _____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER:

STATE OF

COUNTY OF

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐ _____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER:



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**TENANT NOTARY BLOCK:**

STATE OF GA

COUNTY OF DEKALB

The foregoing instrument was *(choose one)* ☐attested or ☑acknowledged before me this 15th day of DECEMBER, 20 09, by *(choose one)* ☐ _____ as an individual, ☑ STEPHEN BYE, as VICE PRESIDENT of **Cox TMI Wireless, L.L.C.**, a DELAWARE corporation, on behalf of the corporation, or ☐ _____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

DANEEN TRACEY JACKSON
MY COMMISSION EXPIRES
NOTARY PUBLIC
NOVEMBER 15TH 2013
FULTON COUNTY, GEORGIA

Daneen Tracey Jackson
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF GA

My commission expires:
11/15/13

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)



Owner Initials: _____
Tenant Initials: _____

# EXHIBIT A
# TO MEMORANDUM OF AGREEMENT

## Legal Description of Owner's Property

The Owner's Property is located at 4151 W. Robinson St., situated in the City of Norman, County of Cleveland, State of Oklahoma, commonly described as follows:

**Insert Legal Description**:

**PARENT TRACT DESCRIPTION**

***Part of the Southeast Quarter (SE1/4) of Section Twenty-two (22), Township Nine (9) North, Range Three (3) West of the Indian Meridian more particularly described as follows:***
***Beginning at the Southwest corner of said Southeast Quarter, thence North 00°31'10" East a distance of 236.51 feet, thence East a distance of 220.41 feet, thence South a distance of 236.50 feet, thence West a distance of 222.55 feet to the point or place of beginning, containing 1.20 acres, more or less, and subject to a 33 foot statutory roadway right ot way along the South property line.***
***(WARRANTY DEED RECORDED IN BOOK 430, PAGE 127, DEED RECORDS OF CLEVELAND COUNTY, OKLAHOMA.)***

**LESSEE'S LEASE SITE DESCRIPTION**

***A tract of land lying in and being part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said tract being more particularly described as follows:***
***Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89°35'01" E on the South line of said SE/4, a distance of 106.06 feet to a point on said South line; Thence N 00°24'59" W perpendicular to said South line, a distance of 80.03 feet to a 1/2" iron rod with cap set for the Southwest corner, said corner being the Point of Beginning; Thence N 00°28'53" W a distance of 10.00 feet to a ½" iron rod with cap set for the Northwest corner; Thence N 89°31'07" E a distance of 10.00 feet to a ½" iron rod with cap set for Northeast corner; Thence S 00°28'53" E a distance of 10.00 feet to a ½" iron rod with cap set for the Southeast corner; Thence S 89°31'07" W a distance of 10.00 feet to the Point of Beginning, containing 100.00 square feet or 0.002 acres, more or less.***

**LESSEE'S ACCESS/UTILITY EASEMENT DESCRIPTION**

***A 12.00 foot wide easement for ingress, egress and utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said easement being 6.00 feet on each side of the following described centerline:***
***Commencing at a mag nail found for the Southwest corner of said SE/4; Thence 89°35'01" E on the South line of said SE/4, a distance of 54.68 feet to a point on said South line; Thence N 00°24'59" W perpendicular to said South line, a distance of 50.00 feet to the Point of Beginning on the North Right-of-way line of W. Robinson Street; Thence continuing N 00°24'59" W perpendicular to said South line, a distance of 8.55 feet to a point; Thence N 89°31'07" E a distance of 56.40 feet to a point; Thence N 00°28'53" W a distance of 21.42 feet to the Point of termination on the South line of the above described 0.002 acre Lessee's lease Site. Side lines of said easement to be shortened or extended such as to begin on the North Right-of-way line of W. Robinson Street and terminate on the South line of said 0.002 acre Lessee's Lease Site.***

**LESSEE'S UTILITY EASEMENT DESCRIPTION**

***A 5.00 foot wide easement for utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed or Records of Cleveland County, Oklahoma; Said easement being 2.50 feet on each side of the following described centerline:***
***Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89°35'01" E on the South line of said SE/4, a distance of 103.56 feet to a point on said South line; Thence N 00°24'59" W perpendicular to said South line, a distance of 80.03 feet to the Point of Beginning, said point being 2.50 feet West of a ½" iron rod with cap set for the Southwest corner of the above described 0.002 acre Lessee's Lease Site; Thence N 20°28'49" E a distance of 16.42 feet to a point; Thence N 20°28'49" E a distance of 17.57 feet to the Point of termination at an existing electric transformer. Side lines of said easement to be shortened or extended such as to being 2.50 feet West of a ½" iron rod with cap set for the Southwest corner of said 0.002 acre Lessee's lease Site and terminate at an existing electric transformer.***



Owner Initials:_____
Tenant Initials: bfB

**LESSEE'S UTILITY EASEMENT DESCRIPTION**

***A 5.00 foot wide easement for utility purposes crossing a part of the Southeast Quarter (SE/4) of Section 22, Township 9 North, Range 3 West of the Indian Meridian, as described in Book 430, Page 127, Deed Records of Cleveland County, Oklahoma; Said easement being 2.50 feet on each side of the following described centerline:***

***Commencing at a mag nail found for the Southwest corner of said SE/4; Thence N 89 °35'01" E on the South line of said SE/4, a distance of 118.16 feet to a point on said South line; Thence N 00 °24'59" W perpendicular to said South line, a distance of 101.78 feet to the Point of Beginning at an existing Cox box; Thence S 27 °09'19" W a distance of 10.43 feet to a point; Thence S 89 °31'07" W a distance of 6.75 feet to the Point of termination on the East Side line of the above described 5.00 feet Lessee's Utility Easement. Side lines of said easement to be shortened or extended such as to begin at an existing Cox box and terminate on the East Side line of said 5.00 feet lessee's Utility Easement.***



Owner Initials:_____
Tenant Initials:_____

# SITE LEASE AGREEMENT

**Cox Site Name: 36th Ave NW Water Tower** **Cox Site ID #: OK005B**
**K-0910-106**

This Site Lease Agreement ("Agreement") is entered into as of _____ by Cox TMI Wireless, L.L.C., a Delaware limited liability company ("Tenant") and the Norman Utilities Authority, a public trust ("Owner"). Owner acknowledges receiving One Dollar ($1.00) and other sufficient consideration for entering into this Agreement.

**1. Premises and Use**. Owner owns the property described on **Exhibit A** attached ("Owner's Property"). Owner leases to Tenant the site (consisting of a portion of Owner's Property) described below:

☒ Land consisting of approximately 100 square feet for construction of:
☒ Shelters and/or base station equipment and
☒ Tower space at the 140 foot level on the tower for attachment of antennas;

generally in the location(s) shown on **Exhibit B** attached, as well as riser, conduit and other space required for cable runs to connect its equipment and antennas, and together with all necessary non-exclusive easements for vehicular and pedestrian access thereto, for placement of an underground grounding system, and for access to the appropriate source of electric, telephone and other utilities, in the discretion of Tenant (the "Site"). The Site may be used by Tenant for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, communications service facilities, including, without limitation, antennas and microwave dishes, air conditioned equipment shelters and/or base station equipment, cable, wiring, power sources (including permanent generators and fuel storage tanks), related equipment and structures (the "Facilities"). All of the Facilities will remain Tenant's personal property and are not fixtures. Any visual or textual representation of the Facilities on **Exhibit B** is illustrative only, and does not limit the rights of Tenant as provided for in this Agreement. Tenant will use the Site in a manner which will not disturb the occupancy of Owner's other tenants. Tenant will have access to the Site and Facilities 24 hours a day, 7 days a week to install, repair, replace, remove, modify or maintain its Facilities. Such access is subject to the terms and requirements as noted in Section 4 of this Agreement. The location of the equipment and property to be constructed and installed on the Leased Premises and on the water tower and Tenant's use of said premises and water tower shall in no way interfere with the Owner's use thereof and the location of such equipment and property shall be approved by the Director of Utilities of the City of Norman before being installed or constructed by Tenant. Tenant shall at its expense complete all make read work and install its equipment and antennas in accordance with the plans and specifications prepared by Tenant and submitted to Owner for approval. Owner shall have thirty (30) working days to review said construction plans and approve them, or in the alternative, to advise Tenant of necessary changes. Tenant shall not commence construction until said approval has been received for Owner. Tenant further agrees to comply with all applicable rules and regulations of the Federal Communications Commission and all applicable local building and electrical codes. All wires and cables used by Tenant must not be placed on the ladders on the tank.

**2. Term**. This Agreement becomes effective on the date that both Owner and Tenant have executed this Agreement ("Effective Date"). Tenant's lease terms shall commence, at the end of the Due Diligence Period on the Term Commencement Date. The term of Tenant's lease and tenancy (the "Term") is 5 years, commencing on the Term Commencement Date which is defined as the date that the Tenant commences construction of the Facilities or within 90 days from the Effective Date, whichever is earlier. The Term will be automatically renewed for 2 additional terms of 5 years each (each a "Renewal Term"), unless Tenant or Owner provides the other with written notice of its intention not to renew not less than one hundred eighty (180) days prior to the expiration of the then-current five-year term. Tenant shall be allowed to conduct certain due diligence as described herein during the Due Diligence Period, defined as the time between the Effective Date and the Term



Owner Initials:_____
Tenant Initials:_____

14-25

Commencement Date. During the Due Diligence Period, Tenant will be permitted to enter Owner's Property to perform surveys, inspections, investigations and tests, including signal, topographical, geotechnical, structural and environmental tests to determine the physical condition, suitability and feasibility of the Site. Such access is subject to the terms and requirements as noted in Section 4 of this Contract. If Tenant determines, in its discretion, that the Site is not appropriate for Tenant's intended use (or if Tenant otherwise decides, for any reason or no reason, not to commence the lease Term), then Tenant may terminate this Agreement upon notice to Owner at any time prior to the end of the Due Diligence Period with the understanding that in such event, Tenant shall pay to Owner a lump sum termination fee in the amount of One Thousand Dollars and no/100 ($1,000.00). Upon termination of this agreement, Tenant shall restore, at its sole cost and subject to Section 11.1, the Site and Facility to its original condition excluding any and all reasonable wear and tear.

**3. Rent**. Starting on the Term Commencement Date and then on the first day of every month thereafter, Tenant will pay rent in advance in equal monthly installments of One Thousand Two Hundred Dollars and no/100 ($1,200.00). Rent for any partial months will be prorated. The Rent due for each year will be increased on the first day of each year by three percent (3%) of the monthly installment of rent payable during the previous year. If the Renewal Term commences on any day other than the first day of a calendar month, then the rent will not be increased until the first day of the first calendar month following the commencement of each Renewal Term. Owner may provide Tenant with an IRS approved W-9 form setting forth the tax identification number of Owner or of the person or entity to whom rent checks are to be made payable as directed in writing by Owner. Rent will be sent to the following address:

City of Norman
Attn: Accounts Receivable
P.O. Box 370
Norman, Oklahoma 73071

**4. Title and Quiet Possession**. Owner represents and warrants that: (a) it is the owner of Owner's Property; (b) it has rights of pedestrian and vehicular access from the nearest public roadway to the Site, which Tenant is permitted to use; (c) it has the right to enter into this Agreement; and (d) the person signing this Agreement has the authority to sign.

**4.1 Tenant Access**. Tenant may access the Site 24 hours a day, 7 days a week to install, repair, replace, remove, modify or maintain its Facilities. Tenant shall notify Owner 24 hours prior to accessing the Site. If Tenant must access the Site due to an emergency situation, Tenant shall notify Owner one hour in advance. Tenant shall be escorted at all times while upon Owner's property, unless an emergency situation arises wherein Tenant attempts on more than one occasion to contact Owner and is unable to do so. An "emergency situation" is defined as any event, situation or occurrence as a result of which Tenant requires immediate access to the Site in order to (i) prevent or minimize the risk of bodily injury or material property damage or (ii) repair damage to or malfunction of the Facilities that has triggered an internal emergency alert on the Facilities or which has materially limited the normal operations of the Facilities. When requesting access to Owner's property, Tenant shall contact Owner, regardless of day or time, at:

City of Norman
(405) 321-2182

Tenant's access to the tower or installation and construction of the Facilities shall not interfere with the maintenance or use of the Owner's Property, including, without limitation said water tower, by Owner. Subject to the provisions of Exhibit D hereto, the presence and operation of Tenant's Facilities must have minimal impact on the Owner's periodic maintenance work at the Owner's Property, including, but not limited to, tank inspections, painting and maintenance of Federal Aviation Administration required equipment. Tenant shall have the option to maintain a city issued time-stamp or other key to the facility.



Owner Initials:_____
Tenant Initials: AB

Tenant shall place a $200 deposit to the City for the issuance of such key. Upon completion or termination of the contract, the key must be returned within sixty (60) days for a refund on deposit. Tenant shall at all times comply with security and confidentiality regulations provided to them in effect at the Owner's property. Information belonging to the Owner shall be safeguarded by Tenant to the same extent as Tenant safeguards their information of like kind relating to its own operation.

**5. Assignment/Subletting**. Tenant will not assign or transfer this Agreement or sublet all or any portion of the Site without the prior written consent of Owner, which consent will not be unreasonably withheld or conditioned; provided, however, that Tenant will have the right, without notice to or consent of Owner, to sublease all or any portion of the Site or assign its rights under this Agreement in whole or in part to: (a) any entity acquiring substantially all of the assets of Tenant; or (b) any successor entity in a merger or consolidation involving Tenant. Owner will not be entitled to any additional rent or other fees for its review or approval.

**6. Notices**. All notices must be in writing and mailed via U.S. mail, certified, with return receipt requested and postage prepaid or when sent via overnight delivery service. Notices to Tenant are to be sent to Cox TMI Wireless, L.L.C., at 5775 Peachtree Dunwoody Road, Atlanta, GA 30342, Attn: Debbie Simmons with a mandatory copy to Tenant's Law Department, at 1400 Lake Hearn Drive, Atlanta, Georgia 30319, Attn.: Mark F. Padilla, Assistant General Counsel. Notices to Owner must be sent to the address shown underneath Owner's signature.

**7. Improvements.** Tenant may, at its expense, make improvements on and to the Site after providing 30 days notice to Owner of such intention and receiving the consent of Owner which consent shall not be unreasonably withheld or conditioned. Owner agrees to cooperate with Tenant with respect to obtaining any required zoning or other governmental approvals for the Site, the Facilities and contemplated use thereof. Upon termination or expiration of this Agreement, Tenant shall remove the above-ground Facilities; provided that Tenant shall restore Owner's property subject to terms in Section 11.1.

**8. Compliance with Laws**. Owner represents and warrants that Owner's Property (including the Site) is in substantial compliance with building codes and other laws, codes and regulations of applicable governmental authorities. Tenant must comply with all applicable laws relating to its possession and use of the Site.

**9. Interference**. Tenant shall resolve technical interference problems that the Facilities might cause with (i) other equipment located at the Site on the Effective Date, or (ii) Owner's equipment, (iii) when Tenant desires to add additional Facilities to the Site, any equipment that became attached to the Site between the Effective Date and such future date. Tenant shall not permanently or unreasonably interfere with existing or future Owner's use and/or public use of public rights-of-way and public properties. Likewise, Owner will not permit or suffer the installation of any equipment on Owner's Property after the Effective Date that: (a) results in technical interference problems with the Facilities, or (b) encroaches onto the Site; provided that said use or installation is not for a public use or purpose. Tenant represents and agrees that the installation and operation of its property and equipment shall not cause damage of any kind to Owner's water tower structure and that Tenant shall in no way interfere with the use, repair and/or maintenance of such tower by Owner.

**10. Utilities**. Tenant will pay for all utilities used by it at the Site. Owner grants to Tenant and the local utility companies (as appropriate) any easement(s) reasonably required by Tenant or the utility companies in order to provide utility service required by Tenant for its intended use of the Site throughout the initial Term and each Renewal Term. However, such easement is subject to the review of the Director of Finance. If there is a loss of electrical service at the Site, Tenant may, at its expense, install and maintain a temporary generator and fuel storage tank at the Site or on Owner's Property adjacent to the Site after providing adequate notice to Owner and receiving consent. Such consent will not be unreasonably withheld or conditioned.



Owner Initials:_____
Tenant Initials: DB

**11. Termination**. Upon termination of this agreement, Tenant shall restore, at its sole cost and subject to Section 11.1, the Site and Facility to its condition immediately prior to Tenant's installation of its Facilities excluding reasonable wear and tear.

**11.1. Backfill and Revegetation.** Tenant shall promptly backfill all trenches, fill all holes caused by shrinkage or compaction, remove all excess dirt and shall eave all disturbed property in a solid and safe condition. The Tenant shall promptly restore all sodded areas to its original condition by placing slab sod on all disturbed areas and provide or arrange for regular watering until the sod is established. All such restoration shall be subject to the inspection and approval of Owner. If the Tenant shall fail to make any restoration, repairs or do any work required by the provisions of this Contract within ten (10) days after receipt of written notice from the Owner, then the Owner will have the right to make such restorations, repairs or do such work at the expense of the Tenant, and the Tenant shall reimburse the Owner for the cost and expense of such repairs within thirty (30) days of tender of a bill. However, if Tenant is prevented from restoring, repairing or performing such work because of conditions beyond their control, Owner, upon written request, shall be given a reasonable amount of time to perform said repairs or restoration as determined by the Owner before issuance of ten (10) days written notice.

**11.2 Removal of Facilities**. Tenant upon termination of this Agreement, shall within sixty (60) days, remove its personal property and restore the Leased Premises as nearly as reasonably possible to its original condition, reasonable wear and tear expected. In the event any equipment installed on the Leased Premises by Tenant is not timely removed, Owner will have the right to remove such equipment from the Leased Premises. Tenant agrees to be responsible to Owner for the costs of such removal.

**12. Default.** If either party is in default under this Agreement for a period of 30 days following receipt of written notice from the non-defaulting party, the non-defaulting party may pursue any remedies available to it against the defaulting party at law and in equity, including, but not limited to, the right to terminate this Agreement. If a non-monetary default cannot reasonably be cured within a 30-day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within the 30-day period and proceeds with due diligence to fully cure the default.

**13. Indemnity**. Except with respect to Hazardous Substances, which are defined and provided for in Section 14 below and any waiver of subrogation agreed to in Section 17, Owner and Tenant each indemnifies and agrees to defend the other against and holds the other harmless from any and all costs (including reasonable attorneys' fees), damages, claims of liability and losses (collectively, "Claims") which arise out of the negligence or intentional misconduct of the indemnifying party, its agents or employees. This indemnity does not apply to any Claims arising from the negligence or intentional misconduct of the indemnified party, its agents or employees. The indemnity obligations under this Section will survive termination of this Agreement for one year.

**14. Hazardous Substances**. Owner represents and warrants that it has no knowledge of any substance, chemical or waste on or affecting Owner's Property that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation (collectively, "Hazardous Substance"). Notwithstanding any provision contained in this Agreement to the contrary, Owner will have sole responsibility for the identification, investigation, monitoring and remediation and cleanup of any Hazardous Substance discovered on Owner's Property. Owner agrees to indemnify, defend and hold harmless Tenant from any and all Claims relating to any Hazardous Substance present on or affecting Owner's Property prior to or on the Effective Date, unless the presence or release of the Hazardous Substance is caused by the activities of Tenant. Tenant represents and warrants it will not permit any chemical substance or hazardous waste to be brought upon, kept or used in or



Owner Initials:_____
Tenant Initials:_____

about Owners' property or premises by Tenant, its officers, representatives, agents, employees, contracts, or invitees. If Tenant breaches this obligation, Tenant shall indemnify, defend and hold harmless Owner from and against all Claims arising out of Tenant's breach of this sentence. Owner will not introduce or use any Hazardous Substance on Owner's Property in violation of any applicable law, and Owner will indemnify, defend and hold harmless Tenant from and against all Claims arising out of Owner's breach of this sentence. The provisions of this Section will apply as of the Effective Date. The indemnity obligations under this Section will survive termination of this Agreement.

**15. Subordination**. This Agreement is subordinate to any mortgage or deed of trust of record against the Site as of the Effective Date.

**16. Property Taxes**. Tenant shall pay Owner any increase in Owner's real property taxes that is directly and solely attributable to improvements to the Site made by Tenant. Owner must pay all property taxes and assessments attributable to Owner's Property. Within 60 days after receipt of evidence of Owner's payment, Tenant will pay to Owner any increase in Owner's real property taxes which Owner reasonably demonstrates is directly and solely attributable to any improvements to the Site made by Tenant.

**17. Insurance**. During the initial Term and all Renewal Terms, Tenant shall procure and maintain commercial general liability insurance, with limits of not less than $5,000,000 to Owner with a Certificate of Insurance evidencing the required coverage. Tenant shall procure and maintain, and shall require its contractors and sub-contractors, to procure and maintain before commencing any installation and/or maintenance work at the Site, commercial general liability in the amount of at least $5,000,000 combined single limit per occurrence, as well as worker's compensation and employers liability insurance with a responsible insurance company rated at least A- by A.M. Best, providing for the payment of compensation in accordance with the laws of the state where the property is located and with a limit of at least $1,000,000 per occurrence for employers liability coverage. The worker's compensation coverage obtained by Tenant shall include a mutual waiver of subrogation in favor of the respective parties. Tenant shall each procure and maintain "all risk" property insurance on their respective property at the Site on a replacement cost basis. Further, Tenant and Owner each assume full risk of loss for any damage to its respective property. The limits of insurance required in this paragraph do not limit in any way the indemnification obligations under Section 13.

**18. Maintenance**. Tenant will be responsible for repairing and maintaining the Facilities and any other improvements installed by Tenant at the Site in a proper operating and reasonably safe condition; provided, however, if any repair or maintenance is required due to the acts or omissions of Owner, its agents, contractors or employees, Owner will promptly reimburse Tenant for the reasonable costs incurred by Tenant to restore the damaged areas to the condition which existed immediately prior thereto.

**19. Destruction or Condemnation**. If the Site or Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, Tenant may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Owner forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If Tenant elects not to terminate this Agreement, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Site.

> **19.1 Destruction Due to Tenant's Activities**. Tenant shall, at its expense, repair all damages to Owner's water tower which are a direct result of Tenant's activities. If Tenant fails to make such repairs within fifteen (15) working days after the damage occurs, Tenant shall have the right to make all necessary and reasonable repairs and Tenant shall reimburse Owner for its reasonable expense within thirty (30) days of Owner presenting to Tenant a statement showing the cost of such repairs.



Owner Initials:_____
Tenant Initials: DB

**20. Miscellaneous**. (a) This Agreement applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Agreement; (b) this Agreement is governed by the laws of the State of Oklahoma; (c) Owner agrees to allow Tenant to file a recordable Memorandum of Agreement in the form of **Exhibit C**, attached; (d) each party will execute, within 20 days after written request, an estoppel certificate or statement certifying that this Agreement is unmodified and in full force and effect or, if modified, describing such modification(s), and that the other party is not in default (beyond applicable cure periods), except as specified in the statement. The estoppel certificate may also certify the current rent amount and whether any rent has been paid in advance; (e) this Agreement (including the Exhibits and Riders) constitutes the entire agreement between the parties and supersedes all prior written and verbal agreements, representations, promises or understandings between the parties. Any amendments to this Agreement must be in writing and executed by both parties; (f) if any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of the provision to persons other than those as to whom it is held invalid or unenforceable, will not be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law; and (g) the prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Agreement is entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.

**21. Non-Binding Until Fully Executed**. This Agreement is for discussion purposes only and does not constitute a formal offer by either party. This Agreement is not and will not be binding on either party until and unless it is fully executed by both parties.

**22. Venue and Interpretation**. All parties hereto expressly agree that the venue of any litigation relating to or involving this Permit and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Cleveland County, Oklahoma. This contract will be interpreted in accordance with Oklahoma law.

The following Exhibits and Riders are attached to and made a part of this Agreement: Exhibits A, B, C and D.

**[The remainder of this page is left intentionally blank.]**



Owner Initials:_____
Tenant Initials: AB

**OWNER:**
**NORMAN UTILITIES AUTHORITY**
A Public Trust

Approved as to form and legality this 16th day of December, 2009.

Rebecca Frazier
City Attorney

Approved by the City Council of the City of Norman this _____ day of _____, 2009.

ATTEST:

_____ _____
Brenda Hall, City Clerk Cindy Rosenthal, Mayor

**TENANT:**
***Cox TMI Wireless, L.L.C.***
a Delaware limited liability company

By: [signature]
Name: Stephen Bye
Title: Vice President
Date: 12/15/09

*Attach Exhibit A – Legal Description of Owner's Property*
*Attach Exhibit B – Site Plan*
*Attach Exhibit C - Memorandum of Agreement Form*
*Attach Exhibit D – Temporary Relocation Right*

# EXHIBIT A
# TO SITE LEASE AGREEMENT

## Legal Description of Owner's Property

The Owner's Property is located at 3099 36th Ave. NW, situated in the City of Norman, County of Cleveland, State of Oklahoma, commonly described as follows:

**Insert Legal Description:**

**PARENT TRACT DESCRIPTION**

***A tract of land in the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of Indian Meridian, Cleveland County, Oklahoma, more particularly described as follows:***
***Beginning at a point 50 feet east and 1050 feet north of the Southwest corner of said Northwest Quarter; thence North 150 feet; thence East 150 feet; thence South 150 feet; thence West 150 feet to the point of beginning. (Warranty Deed recorded in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma)***

**LESSEE'S LEASE SITE DESCRIPTION**
***A tract of land lying in and being part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma; Said tract being more particularly described as follows:***
***Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1115.97 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 157.70 feet to a ½" iron rod with cap set for the Southwest corner, said corner being the Point of Beginning; Thence N 00°18'47" W a distance of 10.00 feet to a ½" iron rod with cap set for the Northwest corner; Thence N 89°41'13" E a distance of 10.00 feet to a ½" iron rod with cap set for the Northeast corner; Thence S 00°18'47" E a distance of 10.00 feet to a ½" iron rod with cap set for the Southeast corner; Thence S 89°41'13" W a distance of 10.00 feet to the Point of Beginning, containing 100.00 square feet or 0.002 acres, more or less.***

**LESSEE'S 20' ACCESS/UTILITY EASEMENT**
***A 20 foot wide easement for ingress, egress and utility purposes crossing a part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma, said easement being 10.00' on each side of the following described centerline:***
***Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1073.94 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 50.00 feet to the Point of Beginning, said point being on the East right of way line of 36th Avenue NW; Thence continuing N 89°31'49" E a distance of 107.58 feet to a point; Thence N 00°18'47" W a distance of 47.03' to the point of termination. Side lines of said easement to be shortened or extended as to begin on the East right of way line of 36th Ave. NW and terminate on the South line and an extension to the West of the South line of the above described 0.002 acre Lessee Lease Site.***

**LESSEE'S 10' UTILITY EASEMENT**
***A 10 foot wide easement for utility purposes crossing a part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma, said easement being 10.00' on each side of the following described centerline:***
***Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1055.22 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 50.00 feet to the Point of Beginning, said point being on the East right of way line of 36th Avenue NW; Thence continuing N 89°09'11" E a distance of 122.53 feet to a point; Thence N 00°18'47" W a distance of 69.90' to the point of termination. Side lines of said easement to be shortened or extended as to begin on the East right of way line of 36th Ave. NW and terminate on an extension to the East of the North line of the above described 0.002 acre Lessee Lease Site.***



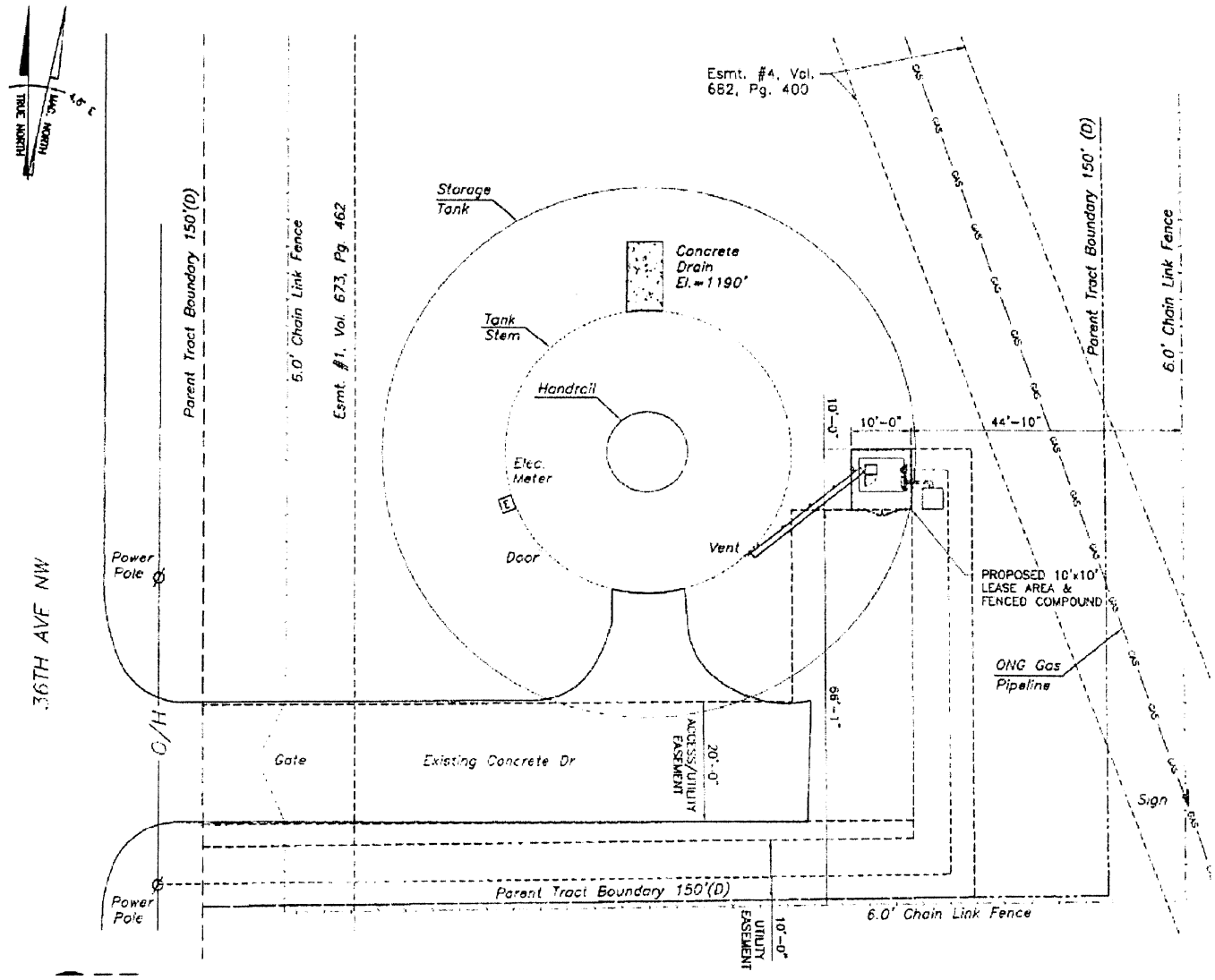
Owner Initials:_____
Tenant Initials:_____

# EXHIBIT B
# TO SITE LEASE AGREEMENT

## Site Plan

The Site is described as follows:

**Insert Site Plan**:






Owner Initials:_____
Tenant Initials:_____

COX SITE NAME: 36th Ave. NW Water Tower

EXHIBIT B - TO SITE AGREEMENT - (Continued)

COX SITE ID #: OK005B

# SURVEY OF A LESSEE'S LEASE SITE LYING IN A PART OF THE NW/4 OF SECTION 14, T 9 N, R 3 W, I.M. CLEVELAND COUNTY, OKLAHOMA

## PROPERTY DESCRIPTION PER PREVIOUSLY RECORDED LEGAL

PARENT TRACT DESCRIPTION
A tract of land in the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, more particularly described as follows:
Beginning at a point 50 feet east and 1050 feet north of the Southwest Corner of said Northwest Quarter; thence North 150 feet; thence East 150 feet; thence South 150 feet; thence West 150 feet to the point of beginning. (Warranty Deed recorded in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma)

## SURVEY OF A LESSEE'S LEASE SITE LYING IN A PART OF THE NW/4 OF SECTION 14, T 9 N, R 3 W, I.M. CLEVELAND COUNTY, OKLAHOMA

LESSEE'S LEASE SITE DESCRIPTION
A tract of land lying in and being part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma; Said tract being more particularly described as follows:
Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1115.97 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 157.70 feet to a 1/2" iron rod with cap set for the Southwest corner, said corner being the Point of Beginning; Thence N 00°18'47" W a distance of 10.00 feet to a 1/2" iron rod with cap set for the Northwest corner; Thence N 89°41'13" E a distance of 10.00 feet to a 1/2" iron rod with cap set for the Northeast corner; Thence S 00°18'47" E a distance of 10.00 feet to a 1/2" iron rod with cap set for the Southeast corner; Thence S 89°41'13" W a distance of 10.00 feet to the Point of Beginning, containing 100.00 square feet or 0.002 acres, more or less.

LESSEE'S 20' ACCESS/UTILITY EASEMENT
A 20 foot wide easement for ingress, egress and utility purposes crossing a part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma, said easement being 10.00' on each side of the following described centerline:
Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1073.94 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 50.00 feet to the Point of Beginning, said point being on the East right of way line of 36th. Avenue NW; Thence continuing N 89°31'49" E a distance of 107.58 feet to a point; Thence N 00°18'47" W a distance of 47.03' to the point of termination. Side lines of said easement to be shortened or extended as to begin on the East right of way line of 36th. Ave. NW and terminate on the South line and on extension to the West of the South line of the above described 0.002 acre Lessee Lease Site.

LESSEE'S 10' UTILITY EASEMENT
A 10 foot wide easement for utility purposes crossing a part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma, said easement being 5.00' on each side of the following described centerline:
Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1055.22 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 50.00 feet to the Point of Beginning, said point being on the East right of way line of 36th. Avenue NW; Thence continuing N 89°09'11" E a distance of 122.53 feet to a point; Thence N 00°18'47" W a distance of 69.90' to the point of termination. Side lines of said easement to be shortened or extended as to begin on the East right of way line of 36th. Ave. NW and terminate on an extension to the East of the North line of the above described 0.002 acre Lessee Lease Site.

SURVEYOR'S CERTIFICATION:
To: Cox TMI Wireless, LLC, Lawyers Title Insurance Corporation.
This is to certify that this map or plat and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA, ACSM and NSPS in 2005, and includes Items 2, 3, 4, 5, 6, 7(a), 8, 10, 11 (location of Utilities per visible, above-ground, site observation) 12, 13 and 17 of Table A therefor. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Oklahoma, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

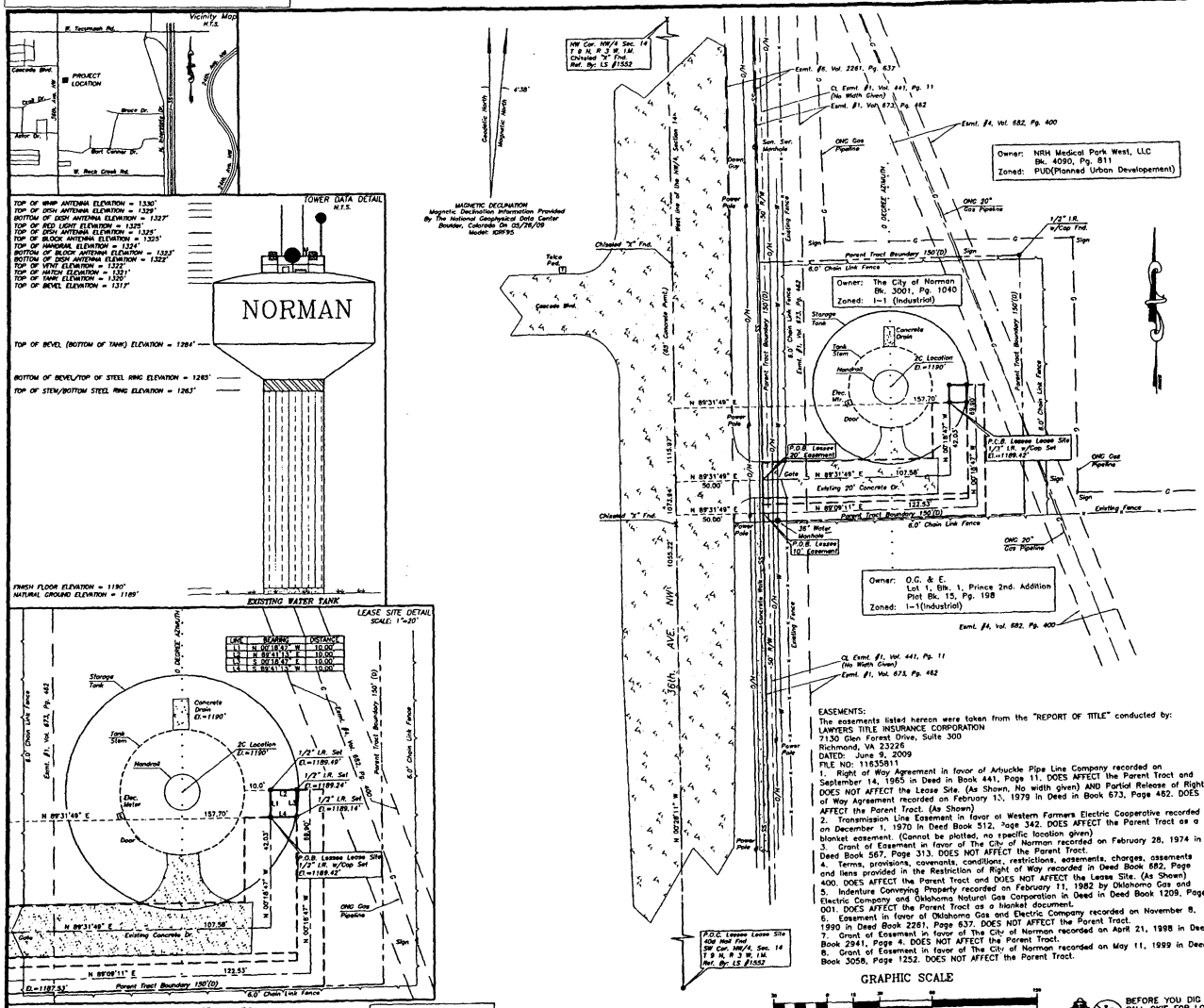
Dated this 28th day of May 2009.

Professional Surveyor L.S. #405
Not Valid without the Signature and Seal of a Oklahoma Licensed Surveyor

Virgil C. Vaughn, OK. L.S. #405 Date

REGISTERED LAND SURVEYOR VIRGIL C. VAUGHN L.S. 405 OKLAHOMA

NOTES CONCERNING SURVEY:
1: This survey is based on "REPORT OF TITLE" PROVIDED BY:
Lawyers Title Insurance Corporation
7130 Glen Forest Drive, Suite 300
Richmond, VA 23226
DATED: June 9, 2009
FILE NO: 11635811
2: Bearings shown hereon are based on the Oklahoma State Plane Coordinate System, South Zone, NAD83 Datum.
3: The elevations shown hereon are based on the NAVD88 Datum.
4: The latitude and longitude shown hereon are based on the NAD83 Datum and meet or exceed the minimum requirements for a FCC/FAA 2C survey which is defined as plus or minus 50 feet horizontal and plus or minus 20 feet vertical. This information was established and determined by GPS on 05/26/2009.
5: The lease site shown on this survey DOES NOT lie within the 100 year plain and is located within the Flood Zone "X" per the Federal Emergency Management Agency (FEMA) as shown on the Flood Insurance Rate Map (FIRM), Community Panel Number 40027C 0190 H, which bears an effective date of September 26, 2008. Flood Zone determination is made through graphic plotting only and no other responsibility is herein assumed for accuracy of the base flood elevation or flood zone areas shown on the FIRM.
6: This survey does not provide any determination concerning wetlands, fault lines, toxic waste or any other environmental issues. Such matters should be directed to an expert consultant.
7: There may be additional buried or underground utilities in the area which the surveyor is unaware of and no liability for such is assumed herein. OKLAHOMA ONE-CALL SYSTEM, INC. (1-800-522-6543)
8: THIS IS NOT A BOUNDARY SURVEY OF THE PARENT TRACT.




EASEMENTS:
The easements listed hereon were taken from the "REPORT OF TITLE" conducted by:
LAWYERS TITLE INSURANCE CORPORATION
7130 Glen Forest Drive, Suite 300
Richmond, VA 23226
DATED: June 9, 2009
FILE NO: 11635811
1. Right of Way Agreement in favor of Arkuckle Pipe Line Company recorded on September 14, 1965 in Deed in Book 441, Page 11. DOES AFFECT the Parent Tract and DOES NOT AFFECT the Lease Site. (As Shown, No width given) AND Partial Release of Right of Way Agreement recorded on February 13, 1979 in Deed in Book 673, Page 482. DOES AFFECT the Parent Tract. (As Shown)
2. Transmission Line Easement in favor of Western Farmers Electric Cooperative recorded on December 1, 1970 in Deed Book 512, Page 342. DOES AFFECT the Parent Tract as a blanket easement. (Cannot be plotted, no specific location given)
3. Grant of Easement in favor of The City of Norman recorded on February 28, 1974 in Deed Book 567, Page 313. DOES NOT AFFECT the Parent Tract.
4. Terms, provisions, covenants, conditions, restrictions, easements, charges, assements and liens provided in the Restriction of Right of Way recorded in Deed Book 682, Page 400. DOES AFFECT the Parent Tract and DOES NOT AFFECT the Lease Site. (As Shown)
5. Indenture Conveying Property recorded on February 11, 1982 by Oklahoma Gas and Electric Company and Oklahoma Natural Gas Corporation in Deed in Deed Book 1209, Page 001. DOES AFFECT the Parent Tract as a blanket document.
6. Easement in favor of Oklahoma Gas and Electric Company recorded on November 8, 1990 in Deed Book 2261, Page 637. DOES NOT AFFECT the Parent Tract.
7. Grant of Easement in favor of The City of Norman recorded on April 21, 1998 in Deed Book 2941, Page 4. DOES NOT AFFECT the Parent Tract.
8. Grant of Easement in favor of The City of Norman recorded on May 11, 1999 in Deed Book 3058, Page 1252. DOES NOT AFFECT the Parent Tract.

BEFORE YOU DIG !!! CALL OKIE FOR LOCATION OF UNDERGROUND UTILITIES. 1-800-522-6543

911 ADDRESS: TO BE DETERMINED

Bearings Based on O.S.P.C.
Established by GPS on: 05/26/09
Datum: Horz: NAD83 Oklahoma South Zone

| Unless Noted, All Data is Expressed In NAD83 & NAVD88 | | | |
|---|---|---|---|
| LOCATION/DESCRIPTION | LATITUDE | LONGITUDE | ELEVATION |
| TOWER NAD83/NAVD88 | 35°15'27.85" | 97°29'37.99" | 1190' |

NOTE: 2C data taken from C/L existing tower as shown hereon.

NOTE: Compound area too flat for contours see lease site detail for SPOT ELEVATIONS

| NO. | REVISION | DATE | BY |
|---|---|---|---|
| 1. | Added Access & Utility Easements | 9/22/09 | RAJ |

DATE SURVEYED: 05/26/09 | DATE DRAFTED: 05/27/09
FIELD WORK: S.G. | OFFICE WORK: RAJ
CHK'D BY: V.C.V. | JOB NO.: 3014.0011
SCALE: 1" = 30'

LEGEND
LIGHT POLE (U/G ELEC) — G — GAS LINE
LIGHT POLE (O/H ELEC) — GM — GAS METER
POWER POLE — T — TELEPHONE LINE
GUY LINE — TR — TELEPHONE RISER
—O/H— OVERHEAD ELECTRIC — SS — SANITARY SEWER MANHOLE
—U/G— U/G ELECTRIC — X — X — FENCE LINE
— W — WATER LINE — D — STORM SEWER MANHOLE
WM — WATER METER — D — STORM SEWER LINE
WV — WATER VALVE — 1/2" IRON ROD WITH CAP SET
IRON ROD FOUND

PREPARED BY:
H&S SURVEYING, INC.
Surveying and Telecommunication Company
SERVING THE CENTRAL U.S.
201 N. BICKFORD, EL RENO, OK. 73036
PH: (405) 262-0249 - FAX: (405) 262-5107
CA 1600 (LS) EXPIRES: 6/30/09
HSSURVEYING1@AOL.COM

PREPARED FOR:
COX
Cox TMI Wireless, LLC

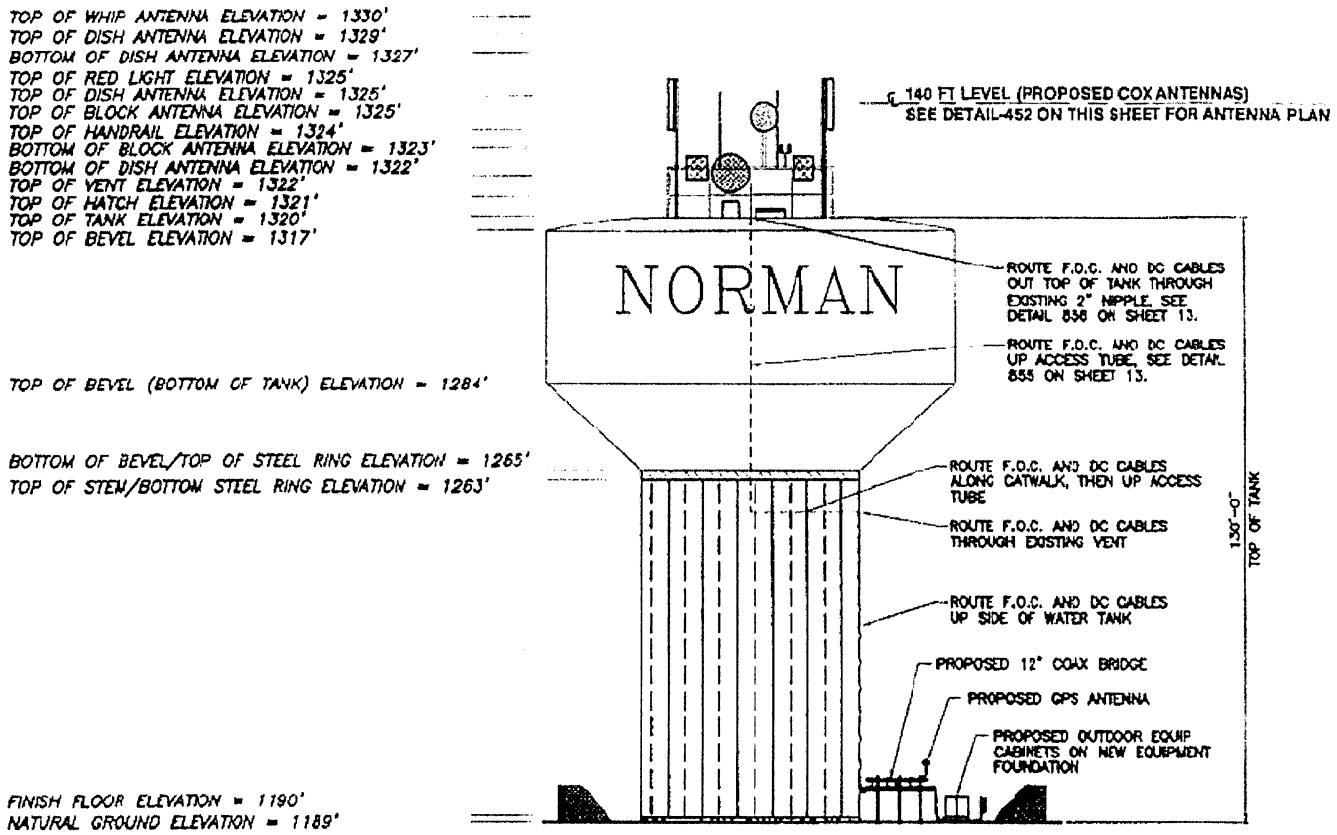
SURVEY OF:
OK005B/36TH. AVE. NW WATER TOWER
36TH. AVE. NW, NORMAN, OK 73072

PREPARED FOR:
COX TMI WIRELESS, LLC
5775 PEACHTREE DUNWOODY ROAD, ATLANTA, GA 30342

DRAWING NO. S-1
SHEET 1 OF 1

OWNER INITIALS: _____ TENANT INITIALS: _____

**Site Plan – Elevation View**




**Note:** Owner and Tenant may, at Tenant's option, replace this Exhibit with an exhibit setting forth the legal description of the Site, or an as-built drawing depicting the Site. Any visual or textual representation of the Facilities is illustrative only, and does not limit the rights of Tenant as provided for in the Agreement. Without limiting the generality of the foregoing:

1. The Site may be setback from the boundaries of Owner's Property as required by the applicable governmental authorities.
2. The access road's width may be modified as required by governmental authorities, including police and fire departments.
3. The locations of any access and utility easements are illustrative only. Actual locations may be determined by Tenant and/or the servicing utility company in compliance with local laws and regulations.



Owner Initials:_____
Tenant Initials:_____

**EXHIBIT C**
**TO SITE LEASE AGREEMENT**

**Memorandum of Agreement**

~~~THIS MOA NOT FOR EXECUTION~~~

This Memorandum of Agreement ("Memorandum") dated _____, 20__, evidences that a Site Agreement (the "Agreement") dated _____, 20___ (the "Effective Date"), was made and entered into between Norman Utilities Authority , a Public Trust, ("Owner") and Cox TMI Wireless, LLC, a Delaware limited liability company ("Tenant" or "Tenant").

The Agreement provides in part that Tenant has the right to enter upon certain real property owned by Owner and located at 3099 36th Ave. NW, situated in the City of Norman, County of Cleveland, State of Oklahoma,, as further described in the Agreement (the "Site") for the purpose of performing investigations and tests and, upon finding the Site appropriate, to lease the Site for the purpose of installing, operating and maintaining a communications facility and other improvements. The Site is further described in Exhibit A attached hereto.

This Agreement becomes effective on the date that both Owner and Tenant have executed this Agreement ("Effective Date"). Tenant's lease terms shall commence, at the end of the Due Diligence Period on the Term Commencement Date. The term of Tenant's lease and tenancy (the "Term") is 5 years, commencing on the Term Commencement Date which is defined as the date that the Tenant commences construction of the Facilities or within 90 days from the Effective Date, whichever is earlier. The Term will be automatically renewed for 2 additional terms of 5 years each (each a "Renewal Term"), unless Tenant or Owner provides the other with written notice of its intention not to renew not less than one hundred eighty (180) days prior to the expiration of the then-current five-year term. Tenant shall be allowed to conduct certain due diligence as described herein during the Due Diligence Period, defined as the time between the Effective Date and the Term Commencement Date.

The parties have executed this Memorandum as of the day and year first above written.

**OWNER**
*Norman Utilities Authority*
A Public Trust

By: _____

Name: _____

Title: _____

Address: _____
_____
_____

Contact Phone Number: _____
Email Address: _____

Witness Name: _____ Witness Name: _____
Print: _____ Print: _____

**TENANT**
*Cox TMI Wireless, L.L.C.*
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Address: _____
_____
_____

Witness Name: _____ Witness Name: _____
Print: _____ Print: _____

*Attach Exhibit A - Site Description*



Owner Initials: _____
Tenant Initials: _____
~~~

## OWNER NOTARY BLOCK:

STATE OF OKLAHOMA

COUNTY OF CLEVELAND

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐ _____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER:

## TENANT NOTARY BLOCK:

STATE OF

COUNTY OF

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐ _____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)



Cox Wireless confidential and/or proprietary information. Use and disclosure is subject to confidentiality agreements. Do not disclose further without the prior written consent of Cox. © Cox Wireless 2009.

# EXHIBIT A
# TO MEMORANDUM OF AGREEMENT

## Legal Description of Owner's Property

The Owner's Property is located at _____, situated in the _____, County of _____, State of _____, commonly described as follows:

**Insert Legal Description**:



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**EXHIBIT D**
**TO SITE LEASE AGREEMENT**

**Temporary Relocation Right**

A. If Owner needs to perform necessary maintenance to Owner's Property that reasonably requires the temporary relocation of the Facilities, Owner will have the right to temporarily relocate the Facilities or any part thereof, to an alternate location on Owner's Property or space within or on top of a building and necessary ground space for the installation and use of a Cell Site on Wheels ("COW"); provided, however, that any temporary relocation, including the return to the original location upon completion of the necessary maintenance, will: (a) be at Tenant's sole cost and expense; (b) be performed exclusively by Tenant or Tenant's contractors; (c) not result in any interruption of the communications service provided from the Facilities; (d) not impair or in any manner alter the quality of communications service provided from the Facilities; and (e) be done in strict accordance with the terms and conditions contained in paragraphs B, and C below.

B. Owner will exercise its temporary relocation right under paragraph A above by delivering written notice to Tenant at least 90 days prior to the proposed temporary relocation date (the "Notice"). In the Notice, Owner will propose an alternate site ("Temporary Relocation Site") on Owner's Property to which Tenant may relocate. Within 30 days Owner and Tenant must mutually agree to a proposed temporary relocation site. Failure of Tenant to approve a temporary relocation site within 30 days of notice from owner shall permit Owner to require Tenant to temporarily relocate its Facilities to another location. If the Tenant does not remove its facilities, the Owner shall have the right to either remove the Tenant's facilities by an approved contractor and bill Tenant for such costs or Tenant agrees that facilities left in place following notice of upcoming maintenance may receive sandblasting and painting related maintenance actions.

C. Owner and Tenant agree that the relocation is only temporary. Furthermore, Tenant does not relinquish any rights under this Agreement as they pertain to the Site and Facilities. Any reinstallation of the Facilities at the original Site will be at Tenant's sole cost and expense, subject to the terms and conditions in Section 11 detailing termination.



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Return recorded copy to:
Cox TMI Wireless, L.L.C.
1400 Lake Hearn Drive
Atlanta, GA 30319
Attn: Wireless Property Manager
Cox Site Name: 36TH Ave NW Water Tower
Cox Site ID #: OK005B
K-0910-106

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Memorandum") dated _____, 20__, evidences that a Site Agreement (the "Agreement") dated _____, 20___ (the "Effective Date"), was made and entered into between Norman Utilities Authority, a public trust ("Owner") and Cox TMI Wireless, L.L.C. ("Tenant").

The Agreement provides in part that Tenant has the right to enter upon certain real property owned by Owner and located at 3099 36th Ave. NW, situated in the City of Norman, County of Cleveland, State of Oklahoma,, as further described in the Agreement (the "Site") for the purpose of performing investigations and tests and, upon finding the Site appropriate, to lease the Site for the purpose of installing, operating and maintaining a communications facility and other improvements. The Site is further described in Exhibit A attached hereto.

This Agreement becomes effective on the date that both Owner and Tenant have executed this Agreement ("Effective Date"). Tenant's lease terms shall commence, at the end of the Due Diligence Period on the Term Commencement Date. The term of Tenant's lease and tenancy (the "Term") is 5 years, commencing on the Term Commencement Date which is defined as the date that the Tenant commences construction of the Facilities or within 90 days from the Effective Date, whichever is earlier. The Term will be automatically renewed for 2 additional terms of 5 years each (each a "Renewal Term"), unless Tenant or Owner provides the other with written notice of its intention not to renew not less than one hundred eighty (180) days prior to the expiration of the then-current five-year term. Tenant shall be allowed to conduct certain due diligence as described herein during the Due Diligence Period, defined as the time between the Effective Date and the Term Commencement Date.

The parties have executed this Memorandum as of the day and year first above written.

**[Remainder of this page left intentionally blank.]**



Owner Initials:_____
Tenant Initials:_____

Cox Wireless confidential and/or proprietary information. Use and disclosure is subject to confidentiality agreements. Do not disclose further without the prior written consent of Cox. © Cox Wireless 2009.

**OWNER:**
**NORMAN UTILITIES AUTHORITY**
A Public Trust

Approved as to form and legality this 16th day of December, 2009.

Robert R. Fague
City Attorney

Approved by the City Council of the City of Norman this _____ day of _____, 2009.

ATTEST:

_____ _____
Brenda Hall, City Clerk Cindy Rosenthal, Mayor

**TENANT:**
***Cox TMI Wireless, L.L.C.***
a Delaware limited liability company

By: _____
Name: Stephen Bye
Title: Vice President
Date: 12/15/09

*Attach Exhibit A - Site Description*



Owner Initials: _____
Tenant Initials: SB

14-41

**OWNER NOTARY BLOCK:**

STATE OF

COUNTY OF

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐ _____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER:

STATE OF

COUNTY OF

The foregoing instrument was *(choose one)* ☐attested or ☐acknowledged before me this _____ day of _____, 20____, by *(choose one)* ☐_____ as an individual, ☐ _____, as _____ of _____, a _____ corporation, on behalf of the corporation, or ☐_____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

_____
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF

My commission expires:

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)
COMMISSION NUMBER:



Cox Wireless confidential and/or proprietary information. Use and disclosure is subject to confidentiality agreements. Do not disclose further without the prior written consent of Cox. © Cox Wireless 2009.

**TENANT NOTARY BLOCK:**

STATE OF GA

COUNTY OF DEKALB

The foregoing instrument was *(choose one)* ☐ attested or ☑ acknowledged before me this 15th day of DECEMBER, 20 09, by *(choose one)* ☐ _____ as an individual, ☑ STEPHEN BYE, as VICE PRESIDENT of Cox TMI Wireless, L.L.C., a DELAWARE corporation, on behalf of the corporation, or ☐ _____, partner or agent on behalf of _____, a _____ partnership.

(AFFIX NOTARIAL SEAL)

DANEEN TRACEY JACKSON
MY COMMISSION EXPIRES
NOTARY
PUBLIC
NOVEMBER 15TH 2013
FULTON COUNTY, GEORGIA

Daneen Tracey Jackson
(OFFICIAL NOTARY SIGNATURE)
NOTARY PUBLIC STATE OF GA

My commission expires:
11/15/13

_____
(PRINTED, TYPED OR STAMPED NAME OF NOTARY)



Owner Initials: _____
Tenant Initials: KB

# EXHIBIT A
# TO MEMORANDUM OF AGREEMENT

## Legal Description of Owner's Property

The Owner's Property is located at 3099 36th Ave. NW, situated in the City of Norman, County of Cleveland, State of Oklahoma, commonly described as follows:

**Insert Legal Description:**

**PARENT TRACT DESCRIPTION**

***A tract of land in the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of Indian Meridian, Cleveland County, Oklahoma, more particularly described as follows:***
***Beginning at a point 50 feet east and 1050 feet north of the Southwest corner of said Northwest Quarter; thence North 150 feet; thence East 150 feet; thence South 150 feet; thence West 150 feet to the point of beginning. (Warranty Deed recorded in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma)***

**LESSEE'S LEASE SITE DESCRIPTION**
***A tract of land lying in and being part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma; Said tract being more particularly described as follows:***
***Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1115.97 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 157.70 feet to a ½" iron rod with cap set for the Southwest corner, said corner being the Point of Beginning; Thence N 00°18'47" W a distance of 10.00 feet to a ½" iron rod with cap set for the Northwest corner; Thence N 89°41'13" E a distance of 10.00 feet to a ½" iron rod with cap set for the Northeast corner; Thence S 00°18'47" E a distance of 10.00 feet to a ½" iron rod with cap set for the Southeast corner; Thence S 89°41'13" W a distance of 10.00 feet to the Point of Beginning, containing 100.00 square feet or 0.002 acres, more or less.***

**LESSEE'S 20' ACCESS/UTILITY EASEMENT**
***A 20 foot wide easement for ingress, egress and utility purposes crossing a part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma, said easement being 10.00' on each side of the following described centerline:***
***Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1073.94 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 50.00 feet to the Point of Beginning, said point being on the East right of way line of 36th Avenue NW; Thence continuing N 89°31'49" E a distance of 107.58 feet to a point; Thence N 00°18'47" W a distance of 47.03' to the point of termination. Side lines of said easement to be shortened or extended as to begin on the East right of way line of 36th Ave. NW and terminate on the South line and an extension to the West of the South line of the above described 0.002 acre Lessee Lease Site.***

**LESSEE'S 10' UTILITY EASEMENT**
***A 10 foot wide easement for utility purposes crossing a part of the Northwest Quarter (NW/4) of Section 14, Township 9 North, Range 3 West of the Indian Meridian, Cleveland County, Oklahoma, as described in Book 3001, Page 1040, Deed Records of Cleveland County, Oklahoma, said easement being 10.00' on each side of the following described centerline:***
***Commencing at a 40d concrete nail found for the Southwest corner of the Northwest Quarter (NW/4) of said Section 14; Thence N 00°28'11" W on the West line of said Northwest Quarter (NW/4) a distance of 1055.22 feet to a point on said West line; Thence N 89°31'49" E perpendicular to said West line a distance of 50.00 feet to the Point of Beginning, said point being on the East right of way line of 36th Avenue NW; Thence continuing N 89°09'11" E a distance of 122.53 feet to a point; Thence N 00°18'47" W a distance of 69.90' to the point of termination. Side lines of said easement to be shortened or extended as to begin on the East right of way line of 36th Ave. NW and terminate on an extension to the East of the North line of the above described 0.002 acre Lessee Lease Site.***



Owner Initials:_____
Tenant Initials:_____

15. ITEM: CONTRACT NO. K-0910-119: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION (ODOT) FOR FEDERAL-AID PROJECT NO. IMY-0035-2(307)111S, STATE JOB NO. 25922(04) FOR THE CONSTRUCTION OF THE ROCK CREEK ROAD OVERPASS, PHASE II, ADOPTION OF RESOLUTION NO. R-0910-64, AND BUDGET APPROPRIATION.

INFORMATION: City Council, in its meeting of September 9, 2008, approved Contract No. K-0809-48 with ODOT for the bridge design of Phase I of the Rock Creek Road Overpass Project. The first design phase covers the bridge items that needed to be incorporated into the ODOT I-35 widening plans. Contract No. K-0809-47 also approved September 9, 2008, with Cobb Engineering addressed the second phase of design to complete the overpass project including widening Rock Creek to four lanes from 24th Avenue N.W. to 36th Avenue N.W. Prior to the bid letting for Phase 2, ODOT requires a project agreement. The estimated construction costs for Phase 2 is $8,170,000 with ODOT's share being $6,932,444 (80%) and the City's share being $1,237,556 (20%). The above-described contract has been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contract and adoption of the resolution. Copies of an advisory memorandum, contract, resolution, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: City Council Motion to approve or reject Contract No. K-0910-119- with the Oklahoma Department of Transportation; and, if approved, adopt Resolution No. R-0910-64 and authorize the execution of the contract and resolution, appropriate $60,000 from the Capital Fund Balance (050-0000-253.20-00) to Project No. DR0010, Brookhaven Creek/Robinson-Crossroads, Construction (050-9968-431.61-01), and direct payment in the amount of $1,237,556 for the City's 20% share.

ACTION TAKEN: _____

office memorandum

**Date:** November 30, 2009

**To:** Honorable Mayor and Councilmembers

**From:** John Clink, Capital Projects Engineer JC
Bob Hanger, City Engineer BH

**Subject:** Agenda Item:

1. Transfer of funds from the Capital Fund Balance to the FYE 2010 Drainage Projects Account
2. Approval of Contract No. K-0910-119, a Project Agreement with the Oklahoma Department of Transportation (ODOT) for construction of the Rock Creek Road Overpass Project; ODOT Project No. IMY-0035-2(307)111MS, Job No. 25922(04)
3. Approval of Resolution No. R-0910-64 adopting ODOT Project Agreement for the construction of the Rock Creek Road Overpass

**BACKGROUND:**

The Rock Creek Road Overpass Project involves the construction of a new four-lane vehicular bridge over Interstate 35 with 10-foot-wide bike/hike trails on both sides. The project also includes improvements to Rock Creek Road between 24th Avenue NW and 36th Avenue NW. The Rock Creek Road Overpass Project will relieve traffic congestion created by the full build out of the University North Park (UNP) development located along 24th Avenue NW between Robinson Street and Tecumseh Road.

On September 9, 2008, City Council approved design Contract Nos. K-0809-47 and K-0809-48 for the design of the overpass. Design Contract No. K-0809-48 is with ODOT and it addresses the bridge design for Phase 1 of the Rock Creek Road Overpass Project. The first design phase covers the bridge items that need to be incorporated into the ODOT I-35 widening plans. Design Contract No. K-0809-47 is with Cobb Engineering and it addresses the second phase of design that will complete the overpass project including the construction of a four-lane Rock Creek Road from 24th Avenue NW to 36th Avenue NW. On October 28, 2008, the City signed Construction Contract No K-0809-75 with ODOT for the construction of the Rock Creek Overpass within the I-35 right-of-way.

**DISCUSSION:**

Prior to letting Phase 2 of the Rock Creek Road Overpass Project for bid, ODOT requires the City of Norman to enter into a project agreement and to adopt it by resolution. The agreement addresses the responsibilities of the ODOT and City. The resolution and agreement were prepared by ODOT. Four (4) copies are needed for execution. Both the resolution and agreement have been reviewed by city staff. The bid letting for this project will be conducted by ODOT on January 21, 2010. If favorable bids are received the Oklahoma Highway Commission will award the contract on February 1, 2010. Construction is expected to begin around April, 2010.

This construction agreement addresses two projects within the boundaries of the Rock Creek Road Overpass Project: (1) the previously mentioned Rock Creek Road Overpass Project and (2) a Wetlands Project located in the Rock Creek Road Overpass detention basin.

The Wetlands Project is a product of the Brookhaven Creek Improvement Project which was authorized by the City Council in January, 2008. The purpose of the Brookhaven Creek Project is to reduce flooding by use of fluvial geomorphology. In recent months, the designers for the Brookhaven Creek Project (Watershed Restoration, Inc.) identified the Rock Creek Road Overpass location as ideal for storm water detention and wetlands. It is also more efficient and cost-effective to construct the drainage improvements simultaneously with the overpass.

The Wetlands Project is located on a 4.54 acre tract of land owned by the City of Norman located north of Rock Creek Road and about 200 feet west of the west I-35 service road. The proposed project consists of a 1.1 acre pond seven feet deep. The northern portion of the pond will be a wet lands area for the purpose of storm water cleansing and wildlife habitat. The area west of the pond will be a park area. This project also includes tree plantings to enhance the area. The City was previously awarded a grant in the amount of $165,000 from the Oklahoma Conservation Commission (OCC). The grant requires the City to pay the costs of the project and then be reimbursed by the OCC. Staff recommends that the funds for this detention basin construction be paid from the Capital Fund Balance which will be reimbursed by the grant. The remainder of the grant funds will be used to provide additional storm water improvements in Brookhaven Creek. The cost of this portion of the project is $60,000.

The Rock Creek Road Overpass portion of the construction project is funded through several sources: Federal transportation funds administered by ODOT, ACOG funds and University North Park TIF funds. The estimated construction cost for Phase II of the Rock Creek Overpass Project is $8,170,000. ODOT's share of this project is $6,932,444 and the City's share of this project is $1,177,556. The total invoice to ODOT for the Wetlands and the Phase II portion of the Rock Creek Road Overpass project is $1,237,556. The funding breakdown for the Phase I and Phase II of the Rock Creek Road Overpass Project is as follows:

| | **Budget** | | **Actual** | |
|---|---|---|---|---|
| | **City** | **ODOT** | **City** | **ODOT** |
| Right-of-Way | $1,475,478 | | $1,475,456 | |
| Construction | $3,843,500 | $5,553,360 | $2,813,556(3) | $6,932,444 |
| Design | $ 641,700 | | $ 641,700 | |
| Utilities | $750,000 | | $ 127,000(1)(2) | |
| Subtotal | $6,710,678 | $5,553,360 | $5,057,712 | $6,932,444 |
| **Total** | **$12,264,038** | | **$11,990,156** | |

(1) $127,000 is payment to ConocoPhillips for pipeline encroachment
(2) OG&E has yet to invoice the City for relocating their facilities in their private easement
(3) ODOT's construction estimates for phases 1 & 2

**RECOMMENDATION NO. 1:**

Staff recommends transfer of $60,000 from the Capital Fund Balance (Account No. 050-0000-253-2000) to Capital Projects Fund, FYE 2010 Drainage Projects, (Account No. 050-9968-431.61-01) Project No. DR0010.

**RECOMMENDATION NO. 2:**

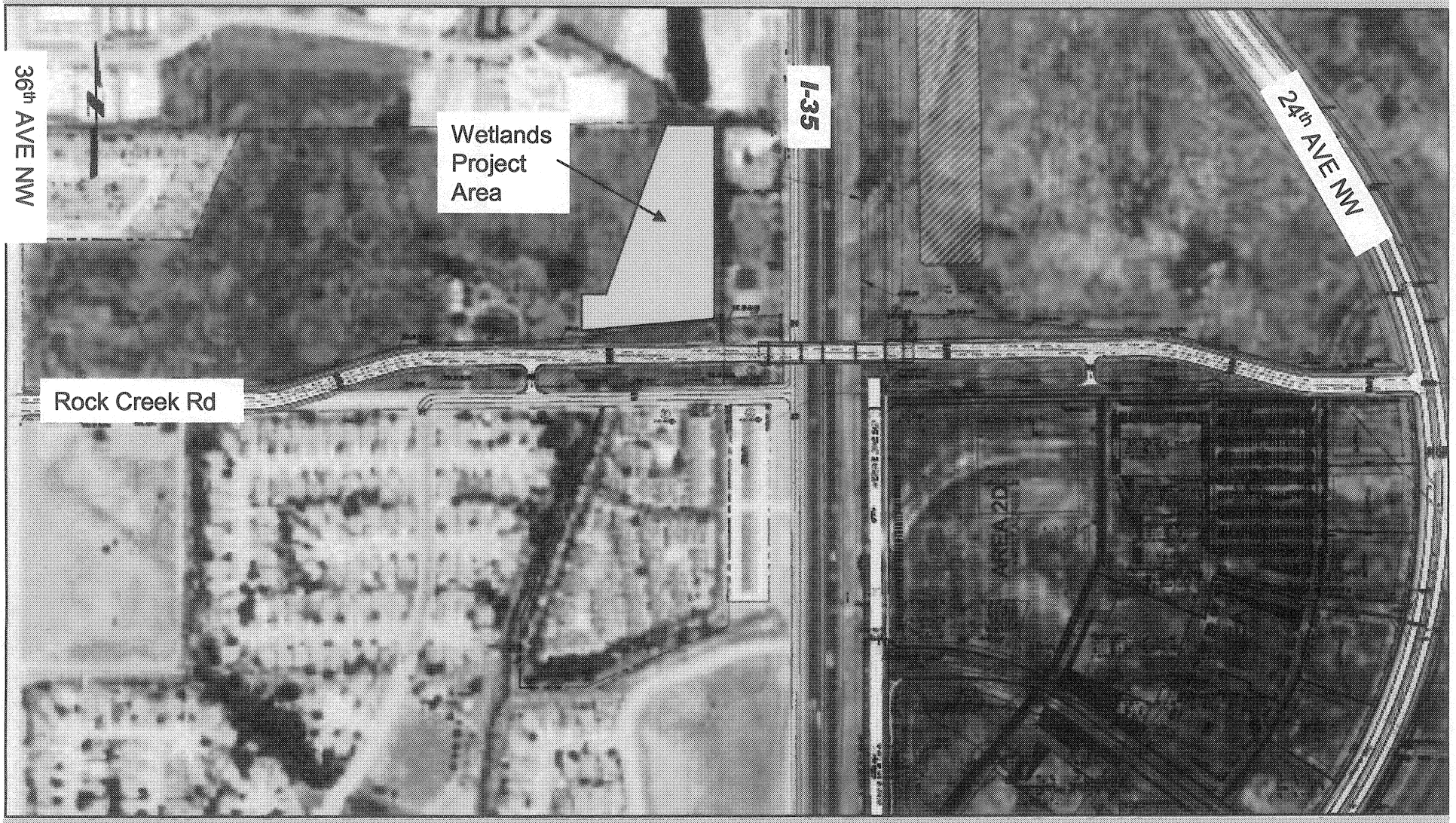
Staff recommends approval of Contract No. K-0910-119 with the Oklahoma Department of Transportation for the Rock Creek Road Overpass Project.

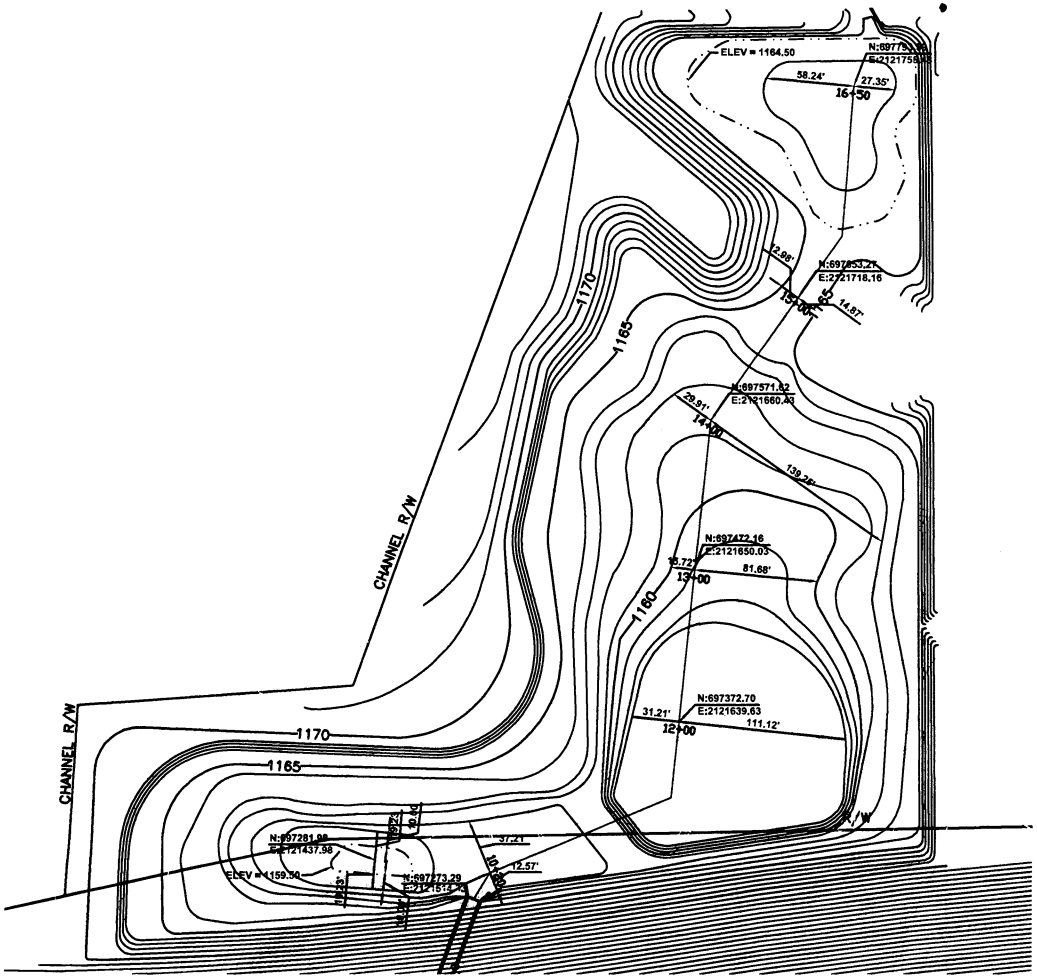
**RECOMMENDATION NO. 3:**

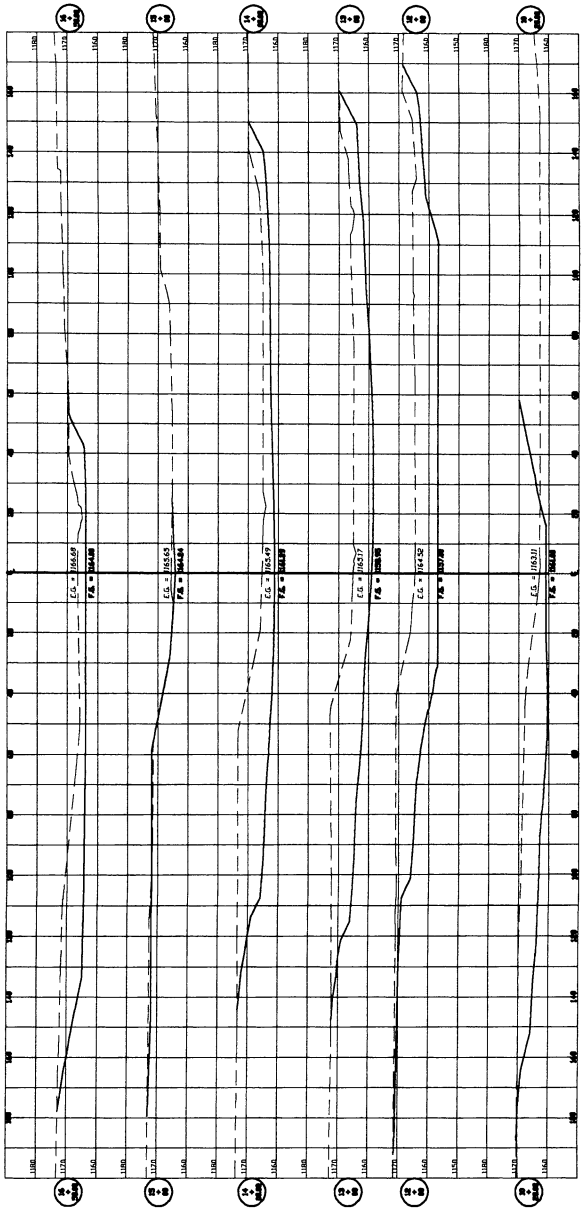
Staff further recommends approval of Resolution No. R-0910-64 adopting Contract No. K-0910-119, and if approved, authorize the execution thereof, and direct payment of the City's matching share to ODOT.

Reviewed by: Shawn O'Leary, Public Works Director
Clint Mercer, Chief Accountant
Anthony Francisco, Director of Finance
Linda Price, Revitalization Manager
Susan Connors, Director of Planning and Community Development
Jeff Bryant, City Attorney
Steve Lewis, City Manager

# ROCK CREEK OVERPASS





NOTE: EROSION CONTROL AFTER POND EXCAVATION SHALL BE PLACED AS FOLLOWS:
SOLID SLAB SODDING FROM PROPERTY LINES TO PROPOSED CONTOUR ELEVATION 1169
VEGETATIVE MULCHING FROM PROPOSED CONTOUR ELEVATIONS 1169 TO 1160

CONTRACTOR SHALL PLACE TOPSOIL OVER ENTIRE DISTURBED AREA AFTER POND IS EXCAVATED PRIOR TO PLACING SOD AND MULCHING.


WEST
3201 S. BERRY ROAD
NORMAN, OKLAHOMA 73072
(405)307-8378
CERTIFICATE OF AUTHORIZATION NO. 3639
RENEWAL DATE 6-30-10


CASSIDY DOESCHER, P.E. NO. 22540

DATE _____

THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT FOR A FINAL, SIGNED AND SEALED DOCUMENT.

JOB PIECE NO. 25922(04) SHEET NO. 25A

IMY-0035-2(307)111MS 25922(04)

# PROJECT AGREEMENT

This Agreement made the day and year last written below, by and between the Oklahoma Department of Transportation, hereinafter referred to as the DEPARTMENT, and the City of Norman, hereinafter referred to as the CITY, which may be referred to collectively as the PARTIES for the following intents and purposes and subject to the following terms and conditions, to wit:

**WITNESSETH:**

**Whereas,** the DEPARTMENT is charged under the law of the State of Oklahoma with construction and maintenance of State Highways; and,

**Whereas,** the DEPARTMENT is by terms of agreements with the Federal Highway Administration responsible for the management and construction of certain federally funded projects within the corporate limits of cities within the State of Oklahoma; and,

**Whereas,** the CITY has been identified as the beneficiary of such a federally funded project; and,

**Whereas,** receipt of the benefits of this project will require that the CITY assume certain financial responsibilities; and,

**Whereas,** the CITY is a municipal corporation and a charter city created and existing under the constitution and laws of Oklahoma; and,

**Whereas,** the laws and constitution of the State of Oklahoma impose fiscal restrictions on the City and its ability to insure financial obligations; and,

**Whereas,** the PARTIES hereto recognized those financial limitations and agree that the financial obligations assumed by the City by the terms of this Agreement are enforceable only to the extent as may be allowed by law or as may be determined by a Court of competent jurisdiction.

**Whereas,** it is understood that, by virtue of the Oklahoma Constitution Article 10 section 26, the payment of CITY funds in the future will be limited to appropriations and available revenues in the then current CITY fiscal year.

**Now therefore,** subject to the limitations herein before described, the DEPARTMENT and the CITY do agree as follows:

1. The CITY requested that certain street improvements be approved by the Oklahoma Transportation Commission as were previously programmed by the CITY and designated as Federal-aid Project IMY-0035-2(307)111MS, State Job Number 25922(04) and which consist of actual improvements as follows:

**Grade, Drain, Bridge, Surface and Erosion Control**

Rock Creek Road over I-35 in the City of Norman.

2. The CITY has prepared or caused to be prepared plans for construction of this federal-aid project and agrees that all construction shall be in conformance with the furnished plans which are incorporated with and made a part of this Agreement.
3. The CITY agrees that the furnished plans are, as a minimum, in conformance with the Oklahoma Department of Transportation 1999 Standard Specification for Highway Construction.
4. The CITY agrees that the PARTIES have entered into a separate "Right-of-Way, Public Utility and Encroachment Agreement" which provides inter alia that the CITY is responsible for furnishing all right-of-way for this federal-aid project, free and clear of all obstructions and encroachments; that the CITY shall at its sole expense maintain the project after construction; and that nothing contained herein shall be construed as modifying, altering, rescind, or abridging any portion of that agreement.
5. The CITY agrees to the location of the subject project and acknowledge receipt of and adopts the plans for said project as the official plans of the CITY for the streets, boulevards, arterial highways and/or other improvements contained therein; and further the CITY affirmatively states that it has fully and completely examined these plans and does hereby warrant to the DEPARTMENT the CITY's complete satisfaction with these plans, and the fitness of the plans to construct the aforesaid project.

6. The CITY certifies that the project design plans comply , and the project when completed will comply, with the applicable provisions of the Department of Justice implementation plan of Title III of the Americans with Disabilities Act, (42 U.S.C. 12101-12213) as outlined in 28 CFR Part 35.

7. The parties hereto agree to comply with all applicable laws and regulations meeting Environmental Protection Agency (EPA) requirements for pollution prevention including discharges from storm water runoff on this project. It is agreed that the project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work and the storm water pollution prevention plan sheet contained in the plans and the appropriate USGS topographic map constitute the storm water management plan for the project described previously in this document. The DEPARTMENT agrees to file jointly with the Contractor the Notice of Intent (NOI) for a general construction National Pollutant Discharge Elimination System (NPDES) permit with EPA which authorizes the storm water discharges associated with the industrial activity from the construction site identified in this document. Further, the CITY agrees as stipulated in Federal Register Vol. 57 No. 175 pg 41191, to co-permit with the DEPARTMENT when or if required to have daily operational control of those activities at the site necessary to ensure compliance with plan requirements and permit conditions.

8. The CITY agrees to prohibit parking on that portion of the project within the corporate limits of the CITY, except as may be indicated in the plans or hereafter approved by Agreement with the DEPARTMENT. The CITY further agrees not to install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and Manual on Uniform Traffic Control Devices (MUTCD).

9. The CITY further agrees and warrants to the DEPARTMENT that subsequent to the construction of said project, the CITY will:

   A. Erect, maintain and operate traffic control devices, including signals, signs and pavement markings only in accordance with 47 0.S. 1991 Section 15-

104, 15-105 and 15-106, and subject to the Agreement of the DEPARTMENT:

(1) In the event that any traffic signal installed hereunder is no longer needed for the purposes designated herein, then the traffic signal installed hereunder shall not be removed by the CITY to any point other than that which is approved by the DEPARTMENT prior to such removal.

(2) In the event there is no mutually agreed location for the reinstallation, the CITY will assume complete ownership of the equipment following removal, if the installation is ten (10) years old or older. If the installation is less than ten (10) years old, and:

(a) In the event the CITY desires total ownership of the equipment, the CITY shall reimburse the DEPARTMENT for the original Federal funding percentage share for the original equipment cost only, amortized for a ten (10) year service life, interest ignored, and assuming straight line depreciation.

(b) In the event the CITY does not desire total ownership of the equipment, the CITY shall sell the equipment at public auction to the highest bidder. The CITY shall reimburse the DEPARTMENT the original Federal funding percentage share of the proceeds of such sale.

B. Subject to Agreement with the DEPARTMENT, regulate and control traffic on said project, including but not limited to, the speed of vehicles, parking, stopping and turns and to make no changes in the provisions thereof without the approval of the DEPARTMENT. It shall be the responsibility of the CITY to notify the DEPARTMENT of any changes necessary to insure safety to the traveling public.

C. Maintain all drainage systems and facilities constructed, installed, modified or repaired in conjunction with this project or as may be otherwise necessary to

insure proper drainage for road surfaces constructed under the terms of this Agreement.

D. Maintain all curbs and driveways abutting road surfaces constructed under the terms of this Agreement and all sidewalks adjacent thereto.

E. Maintain all right-of-way areas adjacent to road surfaces, including erosion control and periodic mowing of vegetation in a manner consistent with applicable codes, ordinances and regulations.

F. Make ample provision annually for proper maintenance of items heretofore delineated as the responsibility of the CITY, including the provision of competent personnel and adequate equipment, and specifically, to provide all required special maintenance of the project during the critical period immediately following construction.

G. Keep all permanent right-of-way shown on said plans free from any encroachment and take immediate action to effect the removal of any encroachments upon notification by the DEPARTMENT.

10. The CITY further agrees and warrants to the DEPARTMENT concerning sign and highway facility lighting:

A. The CITY will upon notice from the DEPARTMENT Engineer provide at its own expense all required electrical energy necessary for all preliminary and operational tests of the highway lighting facilities.

B. Upon completion of the construction of said project, and by the DEPARTMENT, the CITY will be responsible for the maintenance and cost of operation of these highway lighting facilities, including all appurtenances thereto and including the sign lighting facilities.

C. It is specifically understood and agreed that the highway lighting and sign lighting facilities specified herein shall be continuously operated during the hours of darkness between sunset and sunrise and shall not be altered, removed or be allowed to cease operation without the mutual written consent of the DEPARTMENT and the CITY.

D. The CITY agrees to provide, on a periodic schedule, an inspection, cleaning and a re-lamping maintenance program to assure the maximum efficiency of the highway lighting facilities.

E. In the event that highway lighting facilities installed hereunder are no longer needed for the purposes designated herein, then the highway lighting facilities installed hereunder shall not be removed by the CITY to any point other than which is approved by the DEPARTMENT prior to such removal.

F. In the event there is no mutually agreed location for reinstallation, the CITY will assume complete ownership of the equipment following removal, if the installation is twenty (20) years old or older. If the installation is less than twenty (20) years old, and:

(1) In the event the CITY desires total ownership of the equipment, the CITY shall reimburse the DEPARTMENT the original Federal funding percentage share of the original equipment costs only, amortized for a twenty (20) year service life, interest ignored, and assuming straight line depreciation.

(2) In the event the CITY does not desire total ownership of the equipment, the CITY shall sell the equipment at public auction to the highest bidder. The CITY shall reimburse the DEPARTMENT the original Federal funding percentage share of the proceeds of such sale.

11. The CITY agrees, affirms and warrants to the DEPARTMENT that the CITY will be responsible, during the period of construction, for any repairs or maintenance to the approved detour route or any other street which may be required as a result of additional traffic.

12. The CITY agrees to comply with Title VI of the Civil Rights Act of 1964, 78 O.S. • 252.42, U.S.C. •2000d-et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, of Secretary of Transportation, Part 21 - "Nondiscrimination in federally assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act 1964."

13. The CITY agrees that it will, by resolution, duly authorize the execution of this Agreement by the proper officials, and attach copies of such resolution to this Agreement.

14. The DEPARTMENT and the CITY mutually recognize that each party is a governmental entity subject to the provisions of the Governmental Tort Claims Act (51 O.S. 1991 • 151 et seq.). The DEPARTMENT and the CITY hereby mutually agree that each is and may be held severally liable for any and all claims, demands, and suits in law or equity, of any nature whatsoever, paying for damages or otherwise, arising from any negligent act or omission of any of their respective employees, agents or contractors which may occur during the prosecution or performance of this Agreement to the extent provided in the Governmental Tort Claims Act. Each party agrees to severally bear all costs of investigation and defense of claims arising under to Governmental Tort Claims Act and any judgements which may be rendered in such cause to the limits provided by law. Nothing in this section shall be interpreted or construed to waive any legal defense which may be available to a party or any exemption, limitation or exception which may be provided by the Governmental Tort Claims Act.

15. Based on an estimated total construction cost of $8,170,000.00 the DEPARTMENT agrees that $4,000,000 in Interstate Maintenance funds will be applied to this project, which the CITY will match 90-10. Federal-aid Surface Transportation Program funds shall be requested to provide 80% of the remaining participating project costs (estimated at $2,932,444.00). The City agrees that local funds shall be used to provide 10% of the first $4,444,444 (estimated at $444,445.00), and 20% of the remaining participating project costs (estimated at $733,111.00) and 100% of the non-participating project costs (estimated currently at $60,000.00) which shall be deposited with the DEPARTMENT prior to advertising for bids.

16. It is understood by the CITY and the DEPARTMENT that the funding participation stipulated herein may be altered due to bid prices, construction supervision costs, and non-participating costs incurred during construction. Upon final acceptance of this project, the amount of Federal funds and the amount previously deposited by

the CITY will be deducted from the total cost and a refund will be made by the DEPARTMENT to the CITY or additional funding will be requested from the CITY. In case of the project being awarded without to non-participating items, the DEPARTMENT will refund the $60,000 for these items at the demand of the CITY.

17. It is understood by the CITY that no State funds are to be utilized in any phase or aspect of this project. Only CITY and Federal funds are to be utilized.

18. Upon approval of this Agreement and the plans, specifications, and estimates by the DEPARTMENT and Federal Highway Administration, if applicable, the DEPARTMENT shall agree to advertise and let the contract for this project in the usual and customary legal manner. It is agreed that the project herein described is proposed to be financed as previously set forth, and that this Agreement, all plans, specifications, estimates of costs, acceptance of work, payments and procedures in general hereunder are subject in all things at all times to all Federal laws, regulations, orders and approvals as may be applicable hereto.

19. The DEPARTMENT agrees to construct said project in strict accordance with the plans furnished and approved by the CITY, provided that upon consultation with and Agreement by the CITY, the DEPARTMENT shall have the right to make such changes in the plans and specifications as are necessary for the proper construction of the project. The DEPARTMENT shall provide competent supervision at all times that the work is in progress. The CITY shall have inspectors on the project site as the CITY determines necessary to insure construction of the project to the satisfaction of the CITY and shall have representatives available for consultation with the DEPARTMENT representatives to cooperate fully to the end of obtaining work strictly in accordance with the CITY's approved plans and specifications.

20. The CITY agrees that the CITY will intervene as a party defendant in all actions where a contractor may allege delay due to failure of the CITY to accomplish timely utility relocations, site conditions which are not as represented on the plans, or plan errors which impact on project constructability, whether in the District Court or in an alternative dispute resolution forum, will defend all such actions and will pay all damages relating to delay as may be assessed by such court or alternative dispute

resolution forum against the CITY for its adjudged failure.

21. Failure by the CITY to fulfill its responsibilities under this Agreement will disqualify the CITY from future participation in any Federal-aid project. Federal funds are to be withheld until such time as the deficiencies in regulations have been corrected or the improvements to be constructed under this Agreement are brought to a satisfactory condition of maintenance.

22. It is further specifically agreed and understood between the CITY and the DEPARTMENT that the project will be built in accordance with the plans and specifications, and upon final acceptance by the CITY and the DEPARTMENT of this project, the CITY does hereby accept full, complete and total responsibility for the maintenance of this project as provided in this Agreement.. The CITY does not waive any rights against any contractor(s) with respect to defects, hidden or otherwise, in materials or workmanship. The CITY does not, pursuant to this provision or any other provision in this Agreement, waive its sovereign immunity or any exemption from, exception to or limitation of liability as provided in the Governmental Tort Claims Act.

23. The Secretary of the DEPARTMENT may terminate the contract in whole, or from time to time in part, whenever:

    A. The requisite federal funding becomes unavailable through failure of appropriation or otherwise.

    B. The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.

    C. The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.

    D. The Secretary determines that such termination is in the best interest of the State.

IMY-0035-2(307)111MS 25922(04)

IN WITNESS WHEREOF, the Director of the Department of Transportation, pursuant to authority vested in him by the State Transportation Commission, has hereunto subscribed his name as Director of the Department of Transportation and the CITY has executed same pursuant to authority prescribed by law for the Department.

The CITY on this _____ day of _____, _____, and the DEPARTMENT on the _____ day of _____, _____.

APPROVED AS TO FORM
AND LEGALITY

_____
City Attorney

CITY OF NORMAN

_____
Mayor

ATTEST:

_____
City Clerk (Seal)

APPROVED AS TO FORM
AND LEGALITY

_____
General Counsel

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION

_____
Deputy Director

**RESOLUTION NO. R-0910-64**

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:**

THAT, WHEREAS it is in the best interest of the City of Norman, Oklahoma, to execute that certain Project Agreement for Federal-aid Project Number IMY-0035-2(307)111MS, State Job Number 25922(04), by and between the City of Norman and the Oklahoma Department of Transportation;

NOW, THEREFORE, it is hereby resolved that the Mayor is hereby authorized and directed to execute the above described agreement on behalf of the City of Norman, and duly signed by the Mayor on this _____ day of _____, _____.

CITY OF NORMAN

_____

Mayor

ATTEST:

_____

City Clerk

Approved as to form and legality this 17 day of December, 2009

_____

City Attorney

PURCHASE REQUISITION NBR: 0000165905

REQUISITION BY: JOHN CLINK

STATUS: DEPARTMENT APPROVAL
REASON: ODOT CONTRACT

DATE: 12/16/09

SHIP TO LOCATION: PUB WKS- ENGINEERING

SUGGESTED VENDOR: 1514 OKLAHOMA DEPT OF TRANSPORTATIO

DELIVER BY DATE: 12/16/09

| LINE NBR | DESCRIPTION | QUANTITY | UOM | UNIT COST | EXTEND COST | VENDOR PART NUMBER |
|---|---|---|---|---|---|---|
| 1 | ODOT CONTRACT<br>COMMODITY: CONSTRUCTION SERVICES, HE<br>SUBCOMMOD: CONSTRUCTION, CANAL OR AQ | 60000.00 | EA | 1.0000 | 60000.00 | |
| 2 | ODOT CONTRACT<br>COMMODITY: CONSTRUCTION SERVICES, HE<br>SUBCOMMOD: CONSTRUCTION, STREET (MAJ | 1177556.00 | EA | 1.0000 | 1177556.00 | |

REQUISITION TOTAL: 1237556.00

A C C O U N T  I N F O R M A T I O N

| LINE # | ACCOUNT | | PROJECT | % | AMOUNT |
|---|---|---|---|---|---|
| 1 | 05099684316101 | Capital Projects Construction | DR0010<br>Brookhaven Crk:Rob/Crosrd | 100.00 | 60000.00 |
| 2 | 05795104316101 | Capital Projects Construction | UT0003<br>Rock Creek Overpass | 100.00 | 1177556.00 |
| | | | | | 1237556.00 |

REQUISITION IS IN THE CURRENT FISCAL YEAR.

16. ITEM: CONTRACT NO. K-0910-121: A COST SHARING AGREEMENT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND SWEETGRASS COMMUNITIES, L.L.C., IN AN AMOUNT NOT-TO-EXCEED $128,300 FOR THE CITY'S SHARE FOR THE DESIGN AND CONSTRUCTION OF THE LIFT STATION D WATER LINE PROJECT IN CONNECTION WITH RED CANYON RANCH, A PLANNED UNIT DEVELOPMENT.

INFORMATION: The above-described contract has been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contract. Copies of an advisory memorandum, contract, location map, and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Acting as the Norman Utilities Authority, motion to approve or reject Contract No. K-0910-121 with Sweetgrass Communities, L.L.C., in an amount not-to-exceed $128,300; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

office memorandum

**DATE:** December 8, 2009

**TO:** Norman Utilities Authority

**FROM:** Mark Daniels, Utilities Engineer

**SUBJECT:** Agenda Item: Approval of Contract K-0910-121
Cost Sharing Agreement for Lift Station D Water Line

**BACKGROUND:**

The Norman Utilities Authority (NUA) adopted Resolution R-0708-78 directing staff to rehabilitate existing Lift Station D (the Lift Station D Rehabilitation project) as the solution to provide sewage service in Northern Norman.

On February 26, 2008, the NUA approved Contract K-0708-111 with HDR authorizing completion of the preliminary design, final design, and bidding phases for Lift Station D Rehabilitation project. On April 28, 2009, the NUA approved Amendment No. 1 to the contract authorizing HDR to proceed with construction phase services for the project.

On August 25, 2009, the NUA authorized award of the Lift Station D Rehabilitation project to Walters-Morgan Construction, Inc. in the amount of $5,840,000. Construction began September 28, 2009 and is scheduled to be complete March 30, 2011. An offsite 12-inch water line must be constructed to provide water service to the project.

On May 27, 2008, the City of Norman approved the preliminary plat for Red Canyon Ranch, a Planned Unit Development (PUD) to be developed by Sweetgrass Communities, L.L.C. (SCLLC). SCLLC will make water system improvements as a part of their development. Approximately 1,275 linear feet (LF) of 12-inch water line is included in Section I of the development which is currently underway.

**DISCUSSION:**

As originally planned, approximately 3,130 LF of off-site 12-inch water line must be constructed to provide water service to the Lift Station D Rehabilitation project. The original option (Option 1) as well as the option to connect to the existing 12-inch water line in Red Canyon Ranch PUD (Option 2) is viable. The location and cost of each option is discussed below. Staff recommends that Option 2 be implemented through Contract K-0910-121.

As shown in Exhibit B to the proposed cost sharing contract, the Option 1 waterline is proposed to be constructed from the existing 24-inch water line south of Tecumseh Road extending north along the western side of the half section line to the Lift Station D access road and then west to the Lift Station D property, a total distance of approximately 3,130 feet. The estimated cost to design, obtain easements for, permit, and construct these improvements is $177,900 as shown in Exhibit A to the proposed contract.

In order to reduce the scope of Lift Station D Water Line Improvements and expedite completion of the construction, the NUA could, under Option 2, utilize the waterlines constructed by SCLLC in Section 1 of the PUD. As shown in Exhibit B, the Option 2 waterline would be extended to the north following the future street alignment for Red Canyon Ranch (approximately 1,300 LF at an estimated cost of $46,800), across a portion of Wildwood Hills Estates (approximately 1,320 LF), and connecting to the 6-inch water line constructed as a part of the Lift Station D Rehabilitation project (approximately 400 LF). The estimated cost to construct approximately 3,020 LF of waterline under Option 2 is $128,300 as shown in Exhibits A and C to the proposed contract. SCLLC has offered to design, permit, and donate easements on his property for the project; the estimated cost of this work donated to the NUA would be approximately $25,700 as shown in Exhibit C to the proposed contract.

To summarize, the two options for providing water service to lift station D are as follows:

- Option 1, Lift Station D Water Line: The NUA would independently design, obtain easements for, permit, and construct approximately 3,130 LF of 12-inch waterline at an estimated cost of $177,900.
- Option 2, Lift Station D/Red Canyon Ranch Waterline: SCLCC would design, permit, and donate easements on his property at no cost to the NUA and the NUA would construct approximately 3,020 LF of 12-inch water line at an estimated cost of $128,300, a cost savings of approximately $49,600 over Option 1.

Staff recommends that Option 2 be implemented. The following table summarizes the estimated costs for Option 2, Lift Station D/Red Canyon Ranch Waterline.

| Item | Total Estimate | NUA Share | SCLCC Share |
|---|---|---|---|
| Design and Construction Administration | $15,400 | $0 | $15,400 |
| Permitting | 500 | 0 | 500 |
| Easement Acquisition (if not donated) | 9,800 | 0 | 9,800 |
| Construction | 128,300 | 128,300 | 0 |
| Total | $154,000 | $128,300 | $25,700 |

Option 2 provides the following benefits:

- project can be completed more quickly;
- design and permitting is to be completed by SCLLC at no cost to the NUA;
- most offsite easements are donated;
- fire protection is provided to a portion of Wildwood Hills Estates and NUA may obtain additional water customers;
- NUA cost is reduced by approximately $49,600;
- future water line construction costs for SDLLC are reduced by approximately $46,800;
- the length of water line to be maintained by the NUA in future is reduced by approximately 1,300 feet.

The responsibilities of the NUA and SCLLC are detailed in attached Contract K-010-121. Cost breakdowns and a location map for both options are included as Exhibit's A and B. Exhibit C provides cost sharing estimates for the Lift Station D/Red Canyon Ranch Waterline. The NUA will deliver their share of the costs to SCLLC by the later of January 20, 2010 or within 15 days after filing of offsite easements granted by SCLLC. The NUA maximum share ($128,300) will be funded by the Sewer Excise Tax (Fund 322) as the waterline is a requirement of the Lift Station D Rehabilitation project (WW0303); unencumbered construction funds totaling $1,705,952 are currently available in account 322-9382-432.61-01.

**RECOMMENDATION**:

Staff recommends the NUA approve Contract K-0809-121 defining a cost sharing agreement for design and construction of the Lift Station D/Red Canyon Ranch Waterline with Sweetgrass Communities LLC, in the maximum amount of $128,300.

Enclosures: Contract K-0910-121 with Exhibits

Reviewed By: Ken Komiske, Utilities Director
Reviewed By: Clint Mercer, Chief Accountant BY
Reviewed By: Anthony Francisco, Finance Director
Reviewed By: Linda Price, Revitalization Manager
Reviewed By: Susan Connors, Planning Director
Reviewed By: Jeff Bryant, City Attorney
Reviewed By: Steve Lewis, City Manager

# AGREEMENT

This Payback Agreement (the "Agreement") is made and entered into as of the _____ day of _____, 2010, by and between _____Sweetgrass Communities, LLC_____, an Oklahoma limited liability company ("SCLLC") and the Norman Utilities Authority, an Oklahoma public trust, (the "NUA").

W I T N E S S E T H:

WHEREAS, on January 22, 2008, the NUA approved Resolution R-0708-78 directing staff to rehabilitate existing Lift Station D (the Lift Station D Rehabilitation project) as the solution to provide sewage service in Northern Norman, and;

WHEREAS, a part of the Lift Station D Rehabilitation project was for the NUA to independently construct approximately 3,100 linear feet (LF) of new 12-inch water line from the south side of Tecumseh Road, including 100 feet of boring and encasement under Tecumseh Road, extending north along the western side of the half section line to the Lift Station D access road and then west to the Lift Station D property, otherwise known as the Lift Station D Water Line Improvements; and;

WHEREAS, SCLLC owns certain property otherwise known as the Red Canyon Ranch, a Planned Unit Development (PUD), which is required to construct waterlines throughout the PUD as it develops, and;

WHEREAS, SCLLC will independently construct approximately 1,275 LF of 12-inch water line to provide water service for Section 1 of said PUD, and;

WHEREAS, the NUA may utilize a portion of the waterlines constructed by SCLLC in Section 1 of the PUD to reduce the scope of Lift Station D Water Line Improvements, and;

WHEREAS, the NUA and SCLLC have identified the "Lift Station D/Red Canyon Ranch Water Line Improvements" which will reduce overall NUA costs for the Lift Station D Water Line and eliminate a portion of future water improvements by SCLLC, and;

WHEREAS, the "Lift Station D/Red Canyon Ranch Water Line Improvements" consists of approximately 3,000 LF of 12-inch water line and associated appurtenances from the termination point of the Red Canyon Ranch Section 1 water improvements, then northwesterly following the proposed street alignment for Red Canyon Ranch to Wildwood Estates subdivision, then northwesterly to the Lift Station D access road, then west and terminating at the eastern property line, herein after referred to as "the Project" and;

WHEREAS, the NUA desires to expedite completion of the Project, and;

WHEREAS, the Project is a common element that is necessary to provide water service to Lift Station D Rehabilitation project and portions of future development within Red Canyon Ranch, and;

WHEREAS, the Lift Station D Water Line Improvements are the responsibility of the NUA and those improvements will be resolved under the Project, and;

WHEREAS, the SCLLC has entered into a separate agreement with the engineering firm of SMC Consulting Engineers, PLC. herein after referred to as the "Engineer" to prepare the necessary engineering plans and specifications to permit and construct the Project.

NOW, THEREFORE, in consideration of the mutual benefits, covenants and agreements contained herein, the parties agree as follows:

1. The SCLLC and the NUA agree that the SDLLC will be responsible to contract with the Engineer to design the Project and a contractor to construct the Project. The SDLLC shall assure that the provisions of the Oklahoma Competitive Bidding Act, the regulations of the Oklahoma Department of Environmental Quality and the ordinances of the City of Norman are complied with during design and construction of the Project. In the event, SDLLC chooses to award the contract to a qualified bidder other than the low bidder, the NUA share of project costs will be based on the bid of the qualified low bidder, experienced in municipal water line installation.
2. Based upon the estimate of costs to implement the Lift Station D Water Line Improvements and the Lift Station D/Red Canyon Ranch Water Line Improvements attached hereto as Exhibit "A", the NUA agrees to provide construction funding of up to $128,300, and the SCLLC agrees to donate necessary utility easements within the PUD and provide all funding for design, permitting and construction administration of the Project.
3. The NUA and SCLLC agree to provide their share of the estimate of costs to implement the Project attached hereto as shown in Exhibit "C". Said estimate shall include all costs to design, obtain regulatory permits for, obtain rights-of way or easements, and construct and administer said Project.
4. The NUA agrees to provide their share of the cost to SCLLC by the later of January 20, 2010 or within fifteen (15) calendar days followingthe date item (6) below is complete.
5. The NUA and SCLLC agree that SCLLC will make every effort to construct the Project in a timely manner such that water service will be provided to the Lift Station D Rehabilitation project no later than May 1, 2010.
6. The SCLLC agrees to donate (by separate instrument) a 10-foot wide utility easement directly adjacent to the future road right-of-way across their property needed for the Project and file of record at the Cleveland County Court House prior to any NUA funding being forwarded to SCLLC. In the event that it becomes necessary to acquire easements from someone other than the SCLLC, the cost of those easements will be paid solely by the NUA and such sums are in addition to the maximum sum to be paid by NUA.
7. If during design or construction of the Project it becomes necessary to enter into a change order with the design engineer or construction contractor, the SCLLC and NUA agree to fund 100% of the cost adjustment in accordance with item 2 above. However, should the construction cost of the Project exceed $128,300, the additional funding in excess of $128,300 shall be provided solely by SCLLC unless this agreement is otherwise amended by the NUA.
8. Upon completion of the Project, and acceptance by the City of Norman, the Utilities Engineer, or his designated agent will determine the final amount payable by the NUA and SCLLC. The final shares will be adjusted up or down in proportion to the shares in item 2 above. In the case of a construction cost under-run, the SCLLC will pay the NUA within fifteen (15) calendar days the difference between the actual construction cost and the NUA funded amount of $128,300.

9. The following Exhibits are attached hereto and incorporated herein by reference as illustrations of the intent of the parties and the extent of the Project.

   a) Exhibit "A" - "Cost Estimates for Lift Station D Water Line Options" consisting of one text page dated December 8, 2009.
   b) Exhibit "B" - "Lift Station D Water Line Options" consisting of one map dated December 7, 2009.
   c) Exhibit "C" - "Cost Estimate for Lift Station D/Red Canyon Ranch Water Line Improvements" consisting of one text page dated December 8, 2009.
   d) Exhibit "D" – "Final Plat for Red Canyon Ranch Section I" consisting of one map dated August 31, 2009.
   e) Exhibit "E" – "Preliminary Plat for Red Canyon Ranch" consisting of one map dated April 8, 2008.

10. Applicable federal law and the laws of the state of Oklahoma shall govern this agreement.

11. Any communication required by this Agreement shall be made in writing to the addresses below:

SCLLC: Gene McKown, Manager
Sweetgrass Communities L.L.C.
1320 North Porter
Norman, OK 73071
405-364-1152

NUA: Mark Daniels, P.E.
Utilities Engineer
Norman Utilities Authority
P.O. Box 370
Norman OK 73070
405-366-5377

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of NUA and the SCLLC.

IN WITNESS WHEREOF, the NUA and the SCLLC have executed this Agreement,

DATED this _____ day of _____ 20____.

NORMAN UTILITIES AUTHORITY ATTEST:

By: _____ _____

Cindy Rosenthal, Chairperson Brenda Hall, Secretary

APPROVED as to form and legality this 14 day of December 2009.

_____

City Attorney

SWEETGRASS COMMUNITIES, L.L.C.

By: Gene McKown

Gene McKown

Title: Manager

S E A L

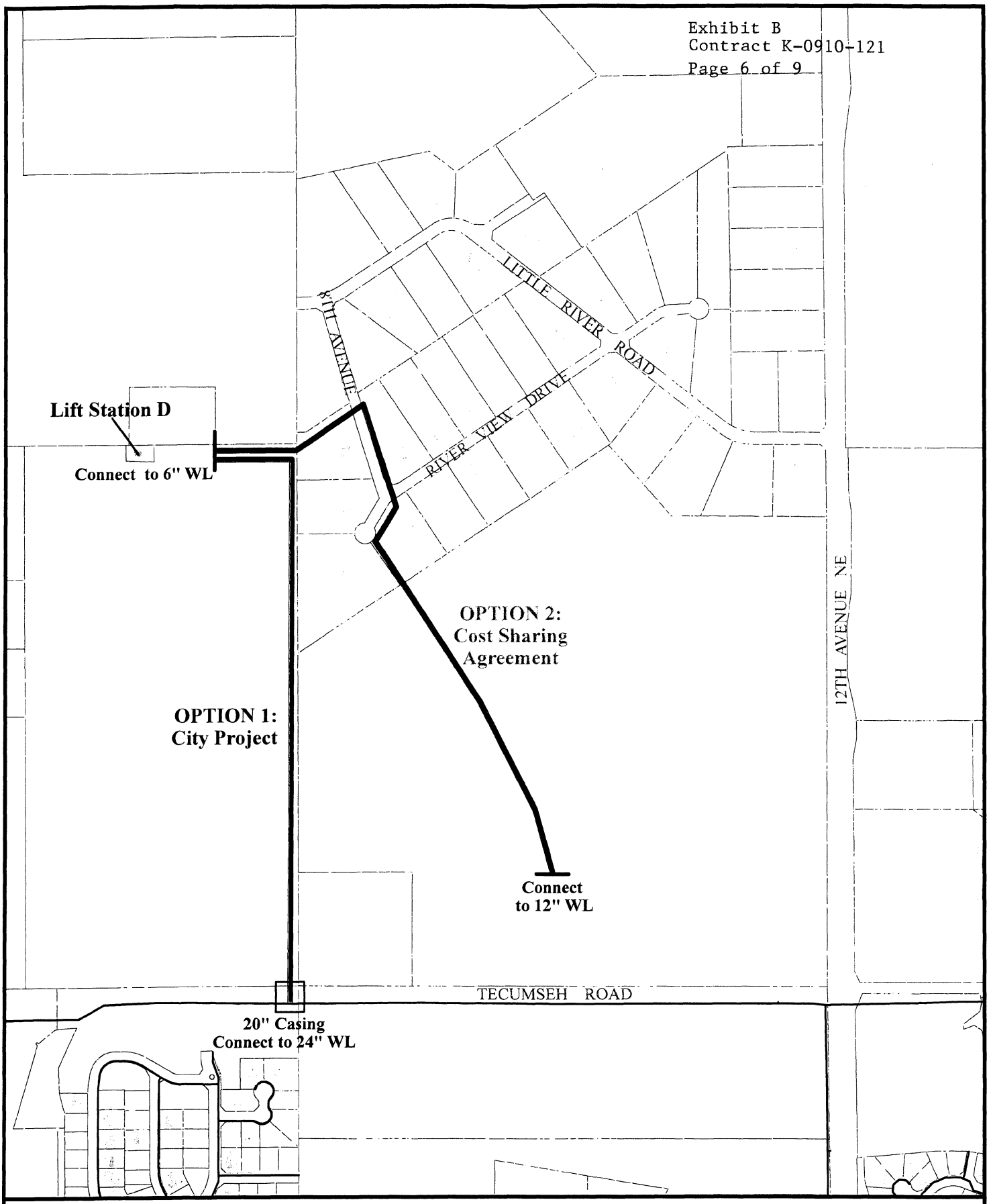
Secretary Attest

Joy Childress

## Exhibit A
## Cost Estimates for Lift Station D Waterline Options

| | Units | Unit Price | Option 1: City Project Quantity | Option 1: City Project Extended Total | Option 2: Cost Sharing Project Quantity | Option 2: Cost Sharing Project Extended Total |
|---|---|---|---|---|---|---|
| Water Line to Serve Lift Station D | | | | | | |
| 12-inch Waterline (To Lift Station D) | LF | $36 | 400 | $14,400 | 400 | $14,400 |
| 12-inch Waterline (in Wildwood Estates) | LF | $36 | 0 | $0 | 1,320 | $47,500 |
| 12-inch Waterline (in Red Canyon Ranch) | LF | $36 | 0 | $0 | 1,300 | $46,800 |
| 12-inch Waterline (in West Property) | LF | $36 | 2,730 | $98,300 | 0 | $0 |
| 12-inch Gate Valves | LF | $1,800 | 2 | $3,600 | 4 | $7,200 |
| Fire Hydrant Assemby | LF | $2,500 | 0 | $0 | 3 | $7,500 |
| Connect to Existing WL | EA | $500 | 1 | $500 | 2 | $1,000 |
| 20-inch Casing for 12-inch WL | LF | $200 | 100 | $20,000 | 0 | $0 |
| 24-inch x 12-inch Tapping Sleeve and Valve | EA | $4,000 | 1 | $4,000 | 0 | $0 |
| Asphalt Road Repair | LF | $36 | 0 | $0 | 70 | $2,500 |
| Rock Backfill Under Roadways | CY | $44 | 0 | $0 | 31 | $1,400 |
| **Construction Subtotal** | | | | **$140,800** | | **$128,300** |
| Design & Construction Administration at 12% | LS | 12% | 1 | $16,900 | 0 | $0 |
| ODEQ Permitting | LF | $0.15 | 3,130 | $500 | 0 | $0 |
| ROW Acquisition | SF | $0.50 | 39,450 | $19,700 | 0 | $0 |
| **Total** | | | | **$177,900** | | **$128,300** |
| **Total Waterline Length** | | | | **3,130** | | **3,020** |
| **Projected Savings with Cast Sharing Agreement =** | | | | **$49,600** | **or 28%** | |
| Note: All costs are rounded to the nearest $100. | | | | | | |
| **Potential Water Cusomers in Wildwood Estates =** | | | | **0** | | **7** |

12/8/2009




Map Produced by the City of Norman
Geographic Information System.
(405) 366-5436
The City of Norman assumes no responsibility for errors or omissions in the information presented.

# LIFT STATION D WATERLINE OPTIONS

Option 1
Option 2

Water Lines
Buildings
Parcels

N W E S

1" = 600'

December 7, 2009

## Exhibit C

## Cost Estimate for Lift Station D / Red Canyon Ranch Waterline

| | Units | Unit Price | Quantity | Total | NUA Share | SCLLC Share | |
|---|---|---|---|---|---|---|---|
| Water Line to Serve Lift Station D | | | | | | | |
| 12-inch Waterline (To Lift Station D) | LF | $36 | 400 | $14,400 | $14,400 | $0 | |
| 12-inch Waterline (Common WL in Wildwood Estates) | LF | $36 | 850 | $30,600 | $30,600 | $0 | |
| 12-inch Waterline (Extra WL in Wildwood Estates) | LF | $36 | 470 | $16,900 | $16,900 | $0 | |
| 12-inch Waterline (Red Canyon Ranch Property) | LF | $36 | 1,300 | $46,800 | $46,800 | $0 | |
| 12-inch Gate Valves | LF | $1,800 | 4 | $7,200 | $7,200 | $0 | |
| Fire Hydrant Assemby | LF | $2,500 | 3 | $7,500 | $7,500 | $0 | |
| Connect to Existing WL | EA | $500 | 2 | $1,000 | $1,000 | $0 | |
| Asphalt Road Repair | LF | $36 | 70 | $2,500 | $2,500 | $0 | |
| Rock Backfill Under Roadways | CY | $44 | 31 | $1,400 | $1,400 | $0 | |
| Construction Subtotal | | | | $128,300 | $128,300 | $0 | |
| Design & Construction Administration at 12% | LS | 12% | 1 | $15,400 | $0 | $15,400 | |
| ODEQ Permitting | LF | $0.15 | 3,020 | $500 | $0 | $500 | |
| ROW Acquisition | SF | $0.50 | 19,500 | $9,800 | $0 | $9,800 | donated |
| **Total** | | | | **$154,000** | **$128,300** | **$25,700** | |

Note: All costs are rounded to the nearest $100.

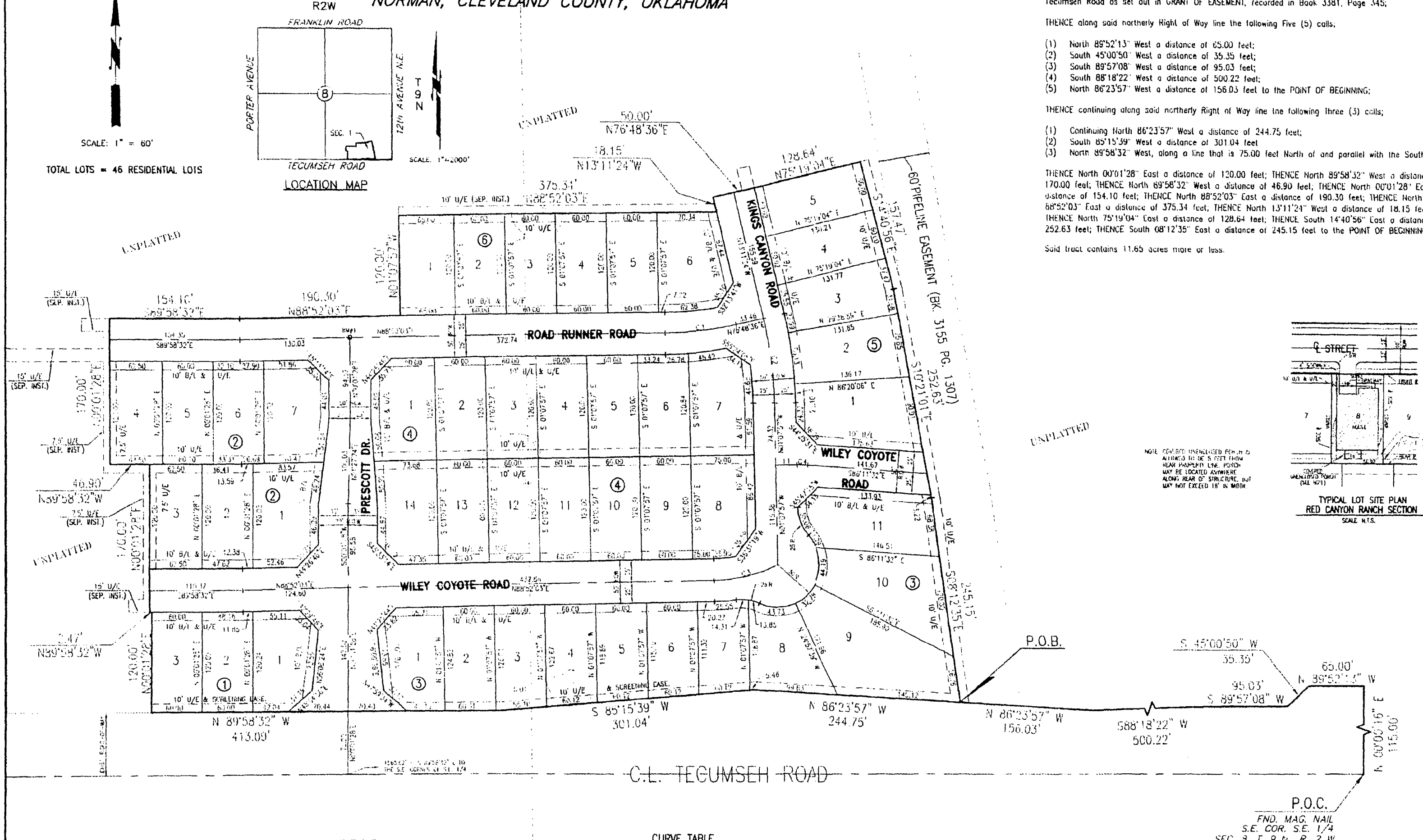
FINAL PLAT

# RED CANYON RANCH SECTION 1

A PLANNED UNIT DEVELOPMENT

A PART OF THE S.E. 1/4, SECTION 8, T9N, R2W, I.M.

NORMAN, CLEVELAND COUNTY, OKLAHOMA




LINE TABLE

CURVE TABLE

NOTE: ALL IMPROVEMENTS WITHIN UTILITY EASEMENTS MAY BE REMOVED BY THE CITY TO PERFORM MAINTENANCE, AND REPLACEMENT OF SUCH IMPROVEMENTS IS THE RESPONSIBILITY OF THE PROPERTY OWNER.

NOTE: COMMON OPEN SPACE AREAS WILL BE OWNED AND MAINTAINED BY MANDATORY PROPERTY OWNERS' ASSOCIATION.

NOTE: THE UNIT OF MEASUREMENT SHOWN FOR ALL DIMENSIONS ON THE FINAL PLAT IS FEET.

## LEGAL DESCRIPTION

A tract of land lying in the Southeast Quarter (S.E. ¼) of Section Eight (8), Township Nine (9) North, Range Two (2) West of the Indian Meridian, Cleveland County, Oklahoma being more particularly described as follows:

COMMENCING at the Southeast Corner of said S.E. 1/4;

THENCE North 00°00'16" East, along the East line of said Southeast Quarter, a distance of 115.00 feet to a point on the Northerly Right of Way line of Tecumseh Road as set out in GRANT OF EASEMENT, recorded in Book 3381, Page 345;

THENCE along said northerly Right of Way line the following Five (5) calls;

(1) North 89°52'13" West a distance of 65.00 feet;
(2) South 45°00'50" West a distance of 35.35 feet;
(3) South 89°57'08" West a distance of 95.03 feet;
(4) South 88°18'22" West a distance of 500.22 feet;
(5) North 86°23'57" West a distance of 156.03 feet to the POINT OF BEGINNING;

THENCE continuing along said northerly Right of Way line the following Three (3) calls;

(1) Continuing North 86°23'57" West a distance of 244.75 feet;
(2) South 85°15'39" West a distance of 301.04 feet
(3) North 89°58'32" West, along a line that is 75.00 feet North of and parallel with the South line of said Southeast Quarter, a distance of 413.09 feet;

THENCE North 00°01'28" East a distance of 120.00 feet; THENCE North 89°58'32" West a distance of 2.47 feet; THENCE North 00°01'28" East a distance of 170.00 feet; THENCE North 89°58'32" West a distance of 46.90 feet; THENCE North 00°01'28" East a distance of 170.00 feet; THENCE South 89°58'32" East a distance of 154.10 feet; THENCE North 88°52'03" East a distance of 190.30 feet; THENCE North 01°07'57" West a distance of 120.00 feet; THENCE North 88°52'03" East a distance of 375.34 feet; THENCE North 13°11'24" West a distance of 18.15 feet; THENCE North 76°48'36" East a distance of 50.00 feet; THENCE North 75°19'04" East a distance of 128.64 feet; THENCE South 14°40'56" East a distance of 157.47 feet; THENCE South 10°21'01" East a distance of 252.63 feet; THENCE South 08°12'35" East a distance of 245.15 feet to the POINT OF BEGINNING;

Said tract contains 11.65 acres more or less.

Date: May 14, 2008

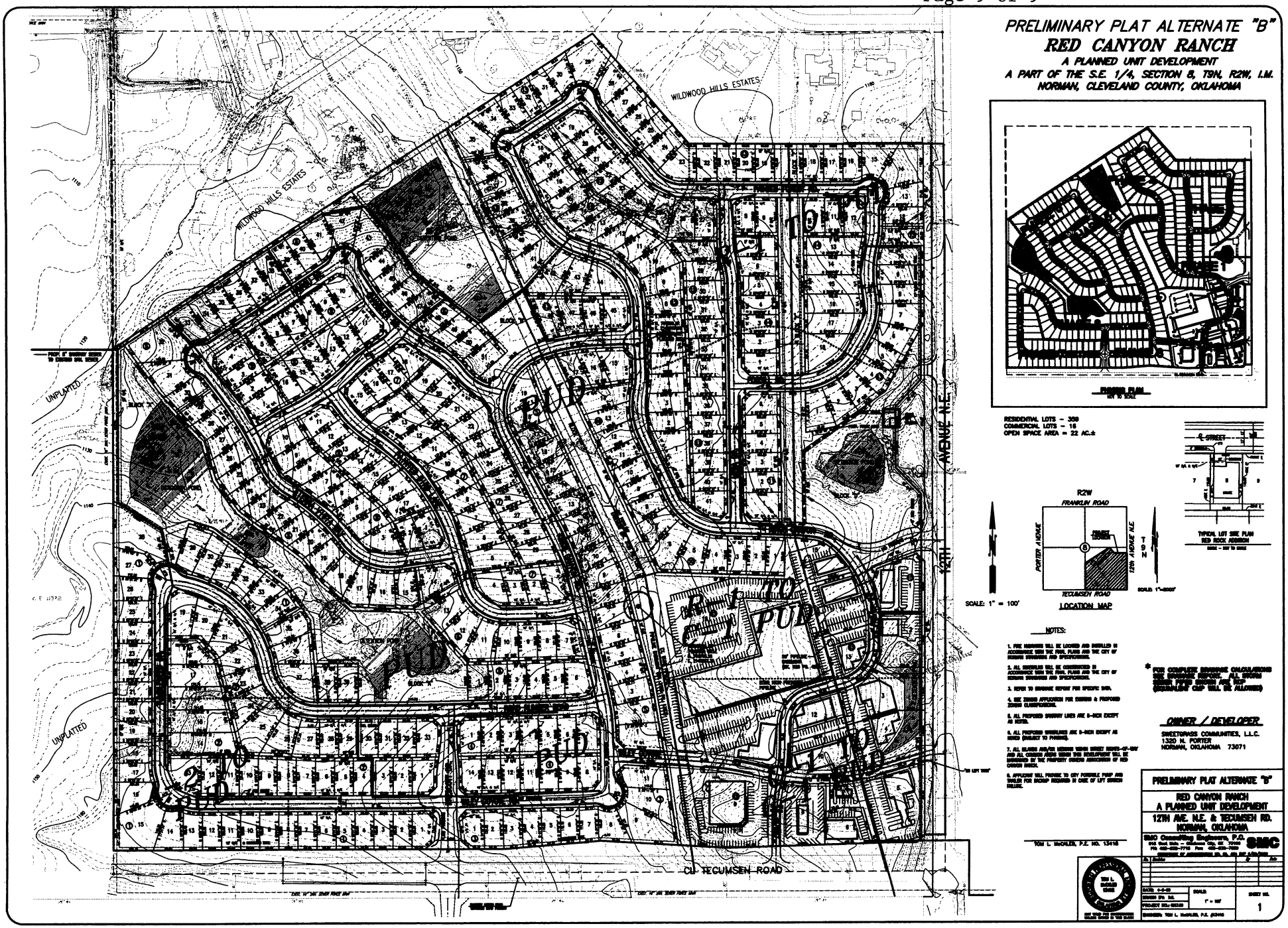
SMC Consulting Engineers, P.C.
815 W. Main Street
Oklahoma City, OK 73106

RED CANYON RANCH SECTION 1 P.U.D.
FINAL PLAT
SHEET 2 OF 2

# PRELIMINARY PLAT ALTERNATE "B"

## RED CANYON RANCH

A PLANNED UNIT DEVELOPMENT
A PART OF THE S.E. 1/4, SECTION 8, T9N, R2W, I.M.
NORMAN, CLEVELAND COUNTY, OKLAHOMA



PURCHASE REQUISITION NBR: 0000165656

REQUISITION BY: WEBB G

STATUS: DIVISION APPROVAL
REASON: LIFT STATION D WATER LINE COST SHARING AGREEMENT

DATE: 12/10/09

SHIP TO LOCATION: P W - UTILITIES DIRECTOR

SUGGESTED VENDOR: SWEETGRASS COMMUNITIES LLC

DELIVER BY DATE: 12/30/09

| LINE NBR | DESCRIPTION | QUANTITY | UOM | UNIT COST | EXTEND COST | VENDOR PART NUMBER |
|---|---|---|---|---|---|---|
| 1 | LIFT STATION D COST SHARING AGREEMENT<br>COMMODITY: CONSTRUCTION SERVICES, HE<br>SUBCOMMOD: CONSTRUCTION, WATER SYSTE | 128300.00 | DOL | 1.0000 | 128300.00 | |

REQUISITION TOTAL: 128300.00

A C C O U N T  I N F O R M A T I O N

| LINE # | ACCOUNT | | PROJECT | % | AMOUNT |
|---|---|---|---|---|---|
| 1 | 32293824326101 | Capital Projects Construction | WW0303<br>Lift Station D Expansion | 100.00 | 128300.00 |
| | | | | | 128300.00 |

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

CONTRACT K-0910-121 CONTINGENT ON NUA APPROVAL
12-22-09.

17. ITEM: CONSIDERATION OF THE FOLLOWING CONTRACTS:

CONTRACT NO. K-0910-130: A REIMBURSEMENT AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CONOCOPHILLIPS PIPELINE COMPANY, A DELAWARE CORPORATION, IN THE AMOUNT OF $127,000 FOR PROPERTY LOCATED ON THE WEST SIDE OF NORTH INTERSTATE DRIVE IN CONNECTION WITH THE ROCK CREEK ROAD OVERPASS PROJECT.

CONTRACT NO. K-0910-131: A RIGHT-OF-WAY AND ENCROACHMENT AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CONOCOPHILLIPS PIPELINE COMPANY, A DELAWARE CORPORATION, FOR PROPERTY LOCATED ON THE WEST SIDE OF INTERSTATE DRIVE IN CONNECTION WITH THE ROCK CREEK ROAD OVERPASS PROJECT.

INFORMATION: City Council, in its meeting of August 11, 2009, approved Contract No. K-0910-49 with ConocoPhillips Pipeline Company, a Delaware Corporation, for property located on the west side of North Interstate Drive in connection with the Rock Creek Road Overpass Project. The encroachment agreement was necessary because ConocoPhillips owns and operates an oil pipeline in a pre-existing easement located on the west side of the Oklahoma Department of Transportation right-of-way. The contract allowed ConocoPhillips to operate and maintain their facilities with the City being responsible for repairing any damage to the bridge's west slope wall caused by ConocoPhillips. ConocoPhillips has refined the conditions outlined in Contract No. K-0910-49 and replaced the existing contract with Contract No. K-0910-131 requires the City to indemnify ConocoPhillips from actions resulting from the City's use of the right-of-way and specifically references the Rock Creek Road Overpass Project plans and drawings that show work near their pipeline. The original Contract No. K-0910-49 will become null and void upon approval of Contract No. K-0910-131. The second agreement referred to as the Reimbursement Agreement/Contract No. K-0910-130, proposes to protect a portion of ConocoPhillips' pipeline underneath the overpass by installing a steel sleeve around it and wrapping the pipeline with a corrosion inhibitor with the City paying the estimated cost of $127,000 for the work. ConocoPhillips will invoice the City if the costs are more than anticipated and if costs are less, the City will be refunded the balance. The above-described contracts have been examined by the Assistant City Attorney and found to be in order and proper as to form. Staff recommends approval of the contracts. Copies of an advisory memorandum and contracts are included in the Agenda Book.

ACTION NEEDED: 1. Motion to approve or reject Contract No. K-0910-130, a reimbursement agreement with ConocoPhillips Pipeline Company, a Delaware Corporation, in the amount of $127,000; and, if approved; authorize the execution thereof.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to approve or reject Contract No. K-0910-131, a right-of-way and encroachment agreement with ConocoPhillips Pipeline Company, a Delaware Corporation; and, if approved; authorize the execution thereof.

ACTION TAKEN: _____

office memorandum

**Date:** December 7, 2009

**To:** Honorable Mayor and Councilmembers

**From:** John Clink, Capital Projects Engineer

**Subject:** Agenda Item – 1) Approval of Contract K-0910-130, Reimbursement Agreement with ConocoPhillips
2) Approval of Contract K-0910-131, Encroachment Agreement with ConocoPhillips

**BACKGROUND:**

The Rock Creek Road Overpass Project involves the construction of a new four-lane vehicular bridge over Interstate 35 (I-35) with 10-foot-wide bike/hike trails on both sides. The project also includes improvements to Rock Creek Road between 24th Avenue NW and 36th Avenue NW. The Overpass Project will relieve traffic congestion created by the full build out of the University North Park (UNP) development located along 24th Avenue NW between Robinson Street and Tecumseh Road.

On September 9, 2008, City Council approved Contract Nos. K-0809-47 and K-0809-48 for the design of the overpass. Contract No. K-0809-48 is with ODOT and it addresses the bridge design for Phase 1 of the Overpass Project. The first design phase covered the bridge items that needed to be incorporated into the ODOT I-35 widening plans. Contract No. K-0809-47 is with Cobb Engineering and it addressed the second phase of design that will complete the overpass project including the construction of a four-lane Rock Creek Road from 24th Avenue NW to 36th Avenue NW. On October 28, 2008, the City signed Construction Contract No. K-0809-75 with ODOT for the construction of the Rock Creek Overpass within the I-35 right-of-way. Bids were received by ODOT on December 18, 2008, for the I-35 Improvements north of Main Street, which include Phase I of the Rock Creek Road Overpass Project. The Oklahoma Highway Commission awarded the contract on January 5, 2009. Construction of the I-35 improvements, including the Rock Creek Bridge, began in March 2009.

**DISCUSSION:**

On July 14, 2009 Council approved an encroachment agreement K-0910-49 with ConocoPhillips. The encroachment agreement is necessary because ConocoPhillips owns and operates an oil pipeline in a pre-existing easement located on the west side of the ODOT right-of-way. The encroachment agreement gives the City the right to encroach but the City must indemnify ConocoPhillips from actions resulting from the City's use of the right-of-way. The agreement also allows ConocoPhillips to operate and maintain their facilities with the City being responsible for repairing any damage caused by ConocoPhillips to the bridge's west slope wall.

In recent weeks, ConocoPhillips has refined the conditions outlined in the original Encroachment Agreement. Those refinements and the associated impact on the City of Norman caused the need for the attached revised contract.

In the second agreement referred to as Reimbursement Agreement Contract K-0910-130, ConocoPhillips proposes to protect the portion of their pipeline underneath the overpass by installing a steel sleeve around it and wrapping the pipeline with a corrosion inhibitor. The City is to pay the estimated cost for the work at this time. The estimated cost is $127,000. If the actual cost of the work is more, ConocoPhillips will bill the City for the difference and if the amount is less, they will refund the City the balance. The funds for this agreement are available in the Rock Creek Overpass Utility, (Account No. 057-9517-431.67-01) Project No. UT0003.

The revised Encroachment Agreement is the same as before giving the City the right to encroach but the City will need to indemnify ConocoPhillips from actions resulting from the City's use of the right-of-way. The agreement also allows the utilities to operate and maintain their facilities with the City being responsible for repairing any damage caused by the utility to the bridge's west slope wall. The difference is, this agreement specifically references the Rock Creek Overpass plans and drawings that show work near their pipeline. These plans and drawings are attached to the agreement in Exhibit A.

It is important to complete this agreement and proceed with the pipeline work in order to keep the Rock Creek Road Overpass Project on schedule for a January bid letting.

**RECOMMENDATION 1:**

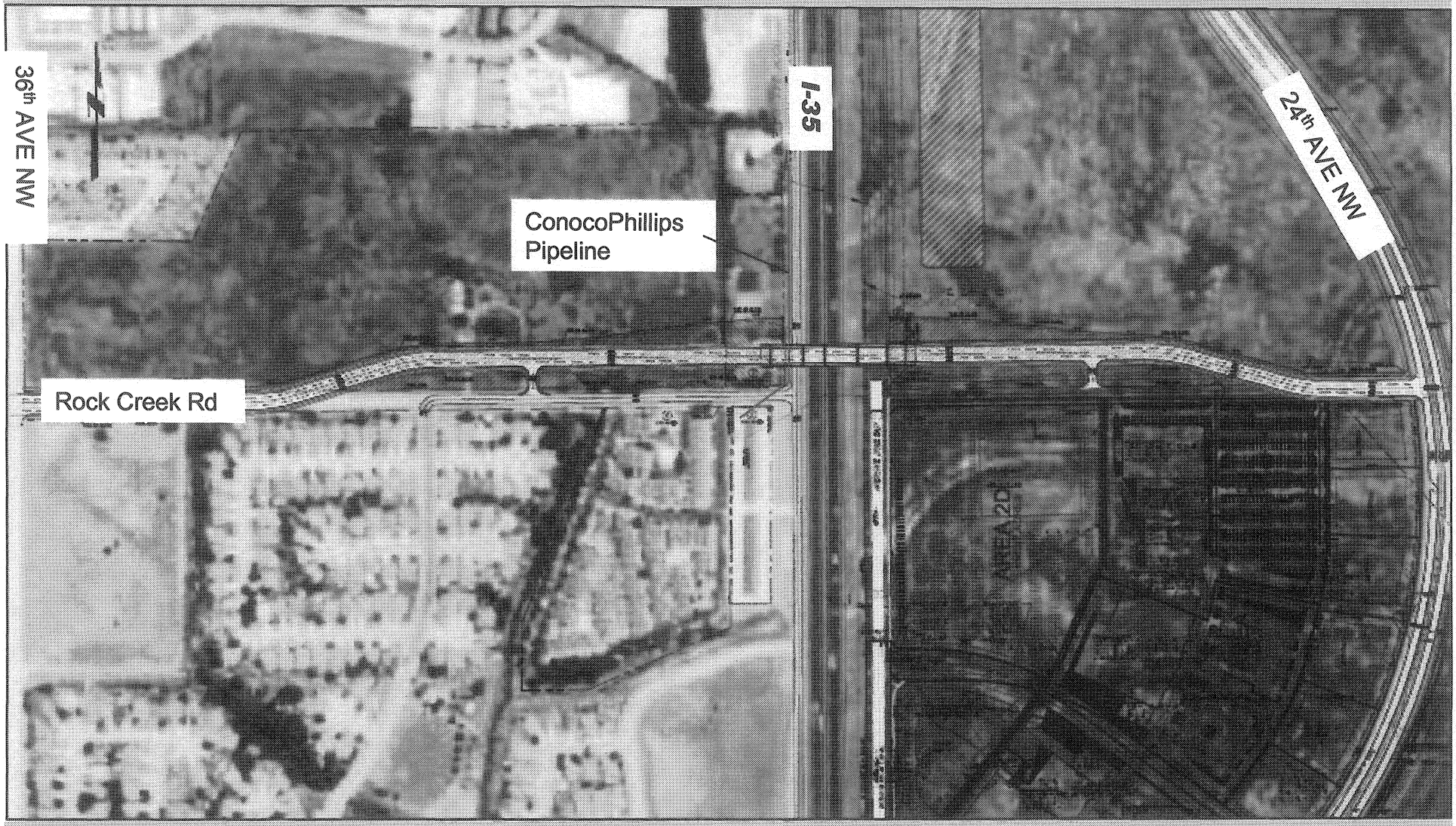
Staff recommends approval of Contract K-0910-130, Reimbursement Agreement with ConocoPhillips.

**RECOMMENDATION 2:**

Staff recommends approval of Contract K-0910-131, Encroachment Agreement with ConocoPhillips

Reviewed by: Susan Connors, Director of Planning and Community Development SFC
Linda Price, Revitalization Manager LP
Anthony Francisco, Finance Director A.F
Bob Hanger, City Engineer BH
Shawn O'Leary, Director of Public Works
Jeff Bryant, City Attorney KW/JB
Steve Lewis, City Manager

# ROCK CREEK OVERPASS



# REIMBURSEMENT AGREEMENT

STATE OF Oklahoma

COUNTY OF Cleveland

THIS REIMBURSEMENT AGREEMENT ("Agreement"), is made and entered into this_____day of_____, 200_, (the "Effective Date") by and between ConocoPhillips Pipe Line Company, a Delaware Corporation, as Party of the First Part, hereinafter referred to as "Company" and City of Norman, as Party of the Second Part, hereinafter referred to as "Second Party", whether one or more, with an address of 201 W. Gray, Norman, Oklahoma 73160.

WITNESSETH:

THAT WHEREAS, Company is the owner of 12 inch crude pipeline, which line is hereinafter referred to as "said pipeline" and the requisite easement therefore located in part in the following described land, to-wit:

Pt of the SW/4 Section 14, Township 9 North, Range 3 West Cleveland County, Oklahoma

The location of said pipeline being more particularly indicated on the attached plat, marked Exhibit "A" and incorporated herein by reference; and

WHEREAS, Second Party is desirous of entering into an agreement with Company whereby certain adjustments will be made to said pipeline; and

WHEREAS, Company is agreeable to entering into such an agreement, provided Second Party reimburses Company for all of its actual costs, both direct and indirect, of making such adjustments.

NOW, THEREFORE, for and in consideration of the premises and mutual covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Company agrees to install a full encirclement sleeve system at Rock Creek Road beneath the slope wall, as described and depicted on the attached plat, marked Exhibit "B", for the purpose of allowing Second Party to install a bridge slope wall on top of the 12 inch crude pipeline; Company further agrees to furnish or subcontract all the labor, tools, materials and equipment necessary for said work, PROVIDED SECOND PARTY AGREES TO PAY FOR ALL COSTS ATTRIBUTABLE THERETO. The adjustments to said pipelines hereinabove described in this paragraph will hereinafter be referred to as the "work".

2. The estimated cost of the work is One Hundred Twenty Seven Thousand Dollars and no/00 ($127,000.00) as set forth in the Cost Estimate consisting of 1 page attached hereto as Exhibit "C" and incorporated herein by reference.

3. SECOND PARTY AGREES TO PAY COMPANY FOR ALL COSTS ATTRIBUTABLE DIRECTLY AND/OR INDIRECTLY TO THE ABOVE DESCRIBED WORK. PURSUANT TO SAID PROMISE OF SECOND PARTY, SAID SECOND PARTY AGREES TO PAY COMPANY A SUM OF MONEY IN THE AMOUNT OF One Hundred Twenty Seven Thousand Dollars and No/100 ($127,000.00) AT THE TIME OF SUBSCRIBING TO THIS AGREEMENT, SAID SUM BEING THE ESTIMATED COST OF PERFORMING SAID WORK.

4. In the event that the direct and indirect costs attributable to the above described work exceeds the aforementioned estimated cost, Second Party agrees to pay any additional amount within fifteen (15) days of receipt of notification by Company.

5. In the event that the direct and indirect costs attributable to the above-described work is less than the estimated cost aforementioned, Company will refund the difference between the aforementioned payment (made by Second Party at the time this Agreement is executed) and all costs attributable to the above-described work.

6. In the event Second Party breaches any of the terms, covenants or provisions of this agreement, and Company turns this agreement over to an attorney for collection, whether or not such attorney is employed directly by Company, Second Party agrees to pay a reasonable attorney's fee.

7. **SECOND PARTY AGREES AND COVENANTS THAT IT WILL PROTECT, RELEASE, INDEMNIFY, DEFEND AND HOLD COMPANY HARMLESS FROM ANY LOSS, DAMAGE OR LIABILITY WHICH COMPANY MAY INCUR OR THAT MAY BE INCURRED BY OTHERS FOR WHICH COMPANY MAY BE LEGALLY RESPONSIBLE, REGARDLESS OF THE CAUSE OR CAUSES THEREOF, INCLUDING WITHOUT LIMITATION ANY CLAIMS CAUSED BY OR CONTRIBUTED TO, IN WHOLE OR IN PART, BY STRICT LIABILITY OR THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OR FAULT (WHETHER IMPOSED BY STATUTE, RULE, REGULATION OR OTHERWISE) AND OF COMPANY OR OTHERS IN ACCOMPLISHING THE WORK TO BE PERFORMED BY COMPANY OR OTHERS ON ITS BEHALF IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, EXCEPT TO THE EXTENT CAUSED BY COMPANY'S WILLFUL MISCONDUCT.**

8. It is expressly understood that Company may perform its obligations under this agreement or may have others perform such obligations.

9. It is expressly understood by the parties hereto that Company is not abandoning any right, title or interest it may have in the above described land.

10. This agreement supersedes every antecedent or concurrent oral and/or written declaration and/or understanding pertaining to the adjustments to the pipeline made by and between Company and Second Party.

11. This agreement shall be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

EXECUTED on the dates set forth in the acknowledgments, but effective for all purposes as of the _____ day of_____, 200__ (the "Effective Date").

COMPANY

WITNESSES:

ConocoPhillips Pipe Line Company

_____

By:_____

_____

Title:_____

SECOND PARTY

WITNESSES:

City of Norman

_____

By: _____

_____
City Clerk

Title: Mayor

APPROVED BY CITY OF NORMAN LEGAL DEPARTMENT
BY _____ DATE 12/18/03

[CORPORATE ACKNOWLEDGMENT]

STATE OF _____ §
§
COUNTY/PARISH OF _____ §

On this _____ day of _____, 200__, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as _____, of _____, and acknowledged that he/she, as such _____, being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said _____ by himself/herself as _____.

_____
NOTARY PUBLIC

Notary Public in and for _____
County/Parish

My commission expires:
_____

[INDIVIDUAL ACKNOWLEDGEMENT]

STATE OF _____ §
§
COUNTY/PARISH OF _____ §

On this _____ day of _____, 200__, before me _____, the undersigned officer, personally appeared _____, who, being by me duly sworn did say that he/she executed the foregoing instrument, and acknowledged that he/she executed it as his/her free act and deed.

_____
NOTARY PUBLIC

Notary Public in and for _____
County/Parish

My commission expires:
_____

STATE OF Oklahoma §
§
PARISH OF _____ §

On this _____ day of _____, 200__, before me _____, the undersigned officer, personally appeared _____, who, being by me duly sworn did say that he/she was one of the subscribing witnesses to the execution of the foregoing instrument by _____, who signed the same in his presence and that of the other subscribing witness to signatures whose names are affixed as such, and that he now recognizes all said signatures to be true and genuine.

_____
NOTARY PUBLIC

Notary Public in and for _____
Parish

My commission expires:
_____

349

STATE OF OKLAHOMA
COUNTY OF CLEVELAND
FILED FOR RECORD
May 22 1952 at 9:00 AM
Book 194 Page 349
HELEN JANSING, Clerk
By Edith Hill Deputy

3695

F 7-3-8
REV. 5-1-51

# RIGHT OF WAY CONTRACT

File No.

FOR AND IN CONSIDERATION of the sum of One Hundred Ten & no/100 Dollars ($110.00), in hand paid, the receipt of which is hereby acknowledged, H. D. Mosier and Ida Mosier hereinafter referred to as Grantor, (whether one or more), does hereby grant unto Continental Pipe Line Company, a corporation, hereinafter referred to as Grantee, its successors and assigns, the right to lay, maintain, inspect, alter, repair, operate, remove and relay a pipe line, or pipe lines, for the transportation of oil and gas and products and by-products thereof, water and other substances, and such drips, valves, fittings, meters and other equipment and appurtenances as may be necessary or convenient for such operations, and to erect, maintain, inspect, repair, operate and remove, upon a single line of poles, with necessary anchorage and appurtenances, telephone, telegraph or electrical lines, or any of them, over, through, upon, under and across the following described land in Cleveland County, State of Oklahoma, to-wit:

North 100 acres of the Southwest Quarter (SW¼) Section 14, Township 9 North, Range 3 West

Telephone lines to be in or on outside fence lines.

Together with the rights of ingress and egress to and from said line or lines, or any of them, for the purpose aforesaid. Grantor to have the right to fully use and enjoy the above described premises, except as to the rights hereinbefore granted; and Grantee hereby agrees to pay any damages which may arise to crops, pasturage, fences or buildings of said Grantor from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantor, one by Grantee, and the third by the two so appointed, and their written determination of amount to be final and conclusive.

Should more than one pipe line be laid under this grant, at any time, an additional consideration, calculated on the same basis per lineal rod as the consideration hereinabove recited, shall be paid for each line so laid after the first line.

Grantee shall bury pipe lines below plow depth.

TO HAVE AND TO HOLD said easement, rights, and rights of way unto the said Grantee, its successors and assigns until said easement be exercised, and so long thereafter as the same shall be useful for the above named purposes.

It is understood that the person securing this grant is without authority from Grantee to make any agreement in respect of the subject matter hereof not herein expressed.

This agreement is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Executed this 11 day of April 1952

In the presence of: Capt. H. Fields

H. D. Mosier
Ida Mosier

Tract No. 31

No. of Rods 110

Check No. 26753

Charge AFE 7050 JO 20

27874

Copy to Ogan } 4-11-73
Copy to Gingrey }
Copy to Ray Barrett 5/25/72

OK-CL-337
TRACT # RODS 110
MAP SALN-1-1.2-55

RW 1952-0632-00

350

3695

(Individual Acknowledgment for Kansas, Oklahoma, Missouri)

STATE OF Oklahoma
COUNTY OF Oklahoma } SS.

BEFORE ME, the undersigned, a Notary Public, within and for said County and State, on this 11th day of April, 1952, personally appeared H. D. Mosier and Ida Mosier, husband and wife, known to me to be the identical persons described in and who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses, purposes, and consideration therein set forth.

My commission expires
November 21, 1954

John Paul [illegible]
Notary Public

(Joint Acknowledgment)

THE STATE OF TEXAS
COUNTY OF _____ } SS.

BEFORE ME, _____, Notary Public in and for _____ County, Texas, on this day personally appeared _____, known to me to be the person___ whose name___ subscribed to the foregoing instrument, and acknowledged to me that___ executed the same for the purposes and consideration therein expressed.

Also before me on this day personally appeared _____ wife of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said _____ ~~acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for~~ the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this _____ day of _____, A. D., 19___

_____
Notary Public.

_____ County, Texas

14-9-3W

RIGHT OF WAY CONTRACT

FROM:

H.D. Mosier and
Ida Mosier

TO:

Continental Pipe Line Co.

5-22-52

Book 194 Pg. 349

RECORDED
Continental Oil Co.
Drawer 1267
Ponca City, Okla.
3695
2.10

Recording Information:
Book 579 Page 192
Cleveland County, Oklahoma
Date Recorded: 10-24-74

PARTIAL RELEASE OF RIGHT OF WAY GRANT

KNOW ALL MEN BY THESE PRESENTS:

That CONTINENTAL PIPE LINE COMPANY, a Delaware corporation does hereby release, relinquish and surrender all of its right, title and interest in the following described right of way grant dated April 11, 1952, from H. D. Mosier and Ida Mosier, to Continental Pipe Line Company, which agreement is recorded in book 194, page 349, of the records of Cleveland County, Oklahoma, insofar and only insofar as said right of way covers:

A tract of land extending 1813.15 feet South from the "East-West" Center Section Line of the North 103.83 acres (more or less) of the Southwest Quarter (SW/4) Section 14, Township 9 North, Range 3 West, Cleveland County, Oklahoma.

EXCEPT THE FOLLOWING PORTION:

An Easement described as follows:

Beginning at a steel pin in the frontage road R/W for the Northeast Corner of Broce Industrial Park, said pin located S. 89° 36' 00"W, 150.60 feet (called 152.7 by Wayne Mitchell,L.S.) from a pin at the Center Section 14, T9N-R3W, Cleveland County, Oklahoma; thence S. 89° 36' 00"W 50.00'; thence S. 0° 02' 00"E 1,813.15' to the South line of said Broce Industrial Park; thence N. 89° 31' 00" E 72.98' to the said frontage road R/W; thence along said frontage road R/W N 0° 02' 00"W 19.0'; thence continuing Northerly along said frontage road R/W with a 7° 31' 00" curve (D4° 25' 00") to the left 170.20'; thence with a 7° 31' 00" curve (D4° 09' 36") to the right, 180.70'; thence N 0° 02' 00"W 1,444.26' to the point of beginning.

Thus described easement is 2.183 acres.

Bearings and property line calls based on "Broce Industrial Park" plat by Wayne Mitchell, Reg. Land Surveyor, and stamped by Clarence L. Martin, P.E. #2995.

And save and except the right of ingress and egress across Owner's land adjacent to said strip for the purpose of exercising any and all of the rights which Company has under the easement first hereinabove described, all of which rights are specifically reserved with regard to said strip.

As to the excepted and unreleased real estate, said right of way grant shall be and remain in full force and effect according to the terms thereof.

RW 1952-0632-01

NC 5-12

27876

In consideration for execution of this Partial Release, the landowner agrees no structures shall be erected or maintained upon the easement not released by this instrument.

In the event it becomes necessary to lower or relocate the pipeline as a result of grading or improvements performed by the landowner, the landowner agrees to notify CONTINENTAL PIPE LINE COMPANY and to bear the expense of lowering or relocating the pipeline.

In the event that any portion of the easement not released by this instrument is subdivided, conveyed or dedicated for use as a public or private roadway of any type, then landowner agrees to notify CONTINENTAL PIPE LINE COMPANY and to bear the expense of lowering and casing the pipeline, if necessary, and properly marking in a manner acceptable to CONTINENTAL PIPE LINE COMPANY.

The terms, conditions and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

EXECUTED this 22nd day of October, 1974.

CONTINENTAL PIPE LINE COMPANY

ATTEST: K. J. Sherwin
Secretary

By N B Maurer
President

FORM APPROVED OHBS

BRUCE CONST. CO. of Okla. INC
Landowner
by [signature]
Attorney-in-Fact
Landowner

STATE OF TEXAS )
) SS.
COUNTY OF HARRIS )

Before me, Beverly Fallwell, a Notary Public in and for said state, on this 22nd day of October, 1974, personally appeared N. B. Maurer, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as its President, and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation for the uses and purposes therein set forth.

Beverly Fallwell
Notary Public

My Commission Expires
June 1, 1975

BEVERLY FALLWELL
Notary Public in and for Harris County, Texas
My Commission Expires June 1, 1975

STATE OF OKLAHOMA )
) SS:
COUNTY OF CLEVELAND )

Before me the undersigned, a notary public in and for said county and state, personally appeared A. A. Vance, Jr., known to me to be the person whose name is subscribed to the foregoing instrument and known to me to be the person whose name is subscribed as Attorney-in-Fact for BROCE CONSTRUCTION CO. OF OKLAHOMA, INC., a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act of said corporation.

Given under my hand and seal of office this 14th day of October, 1974.

Peggy W. Rhoton
Notary Public

My commission expires Nov. 19, 1977.

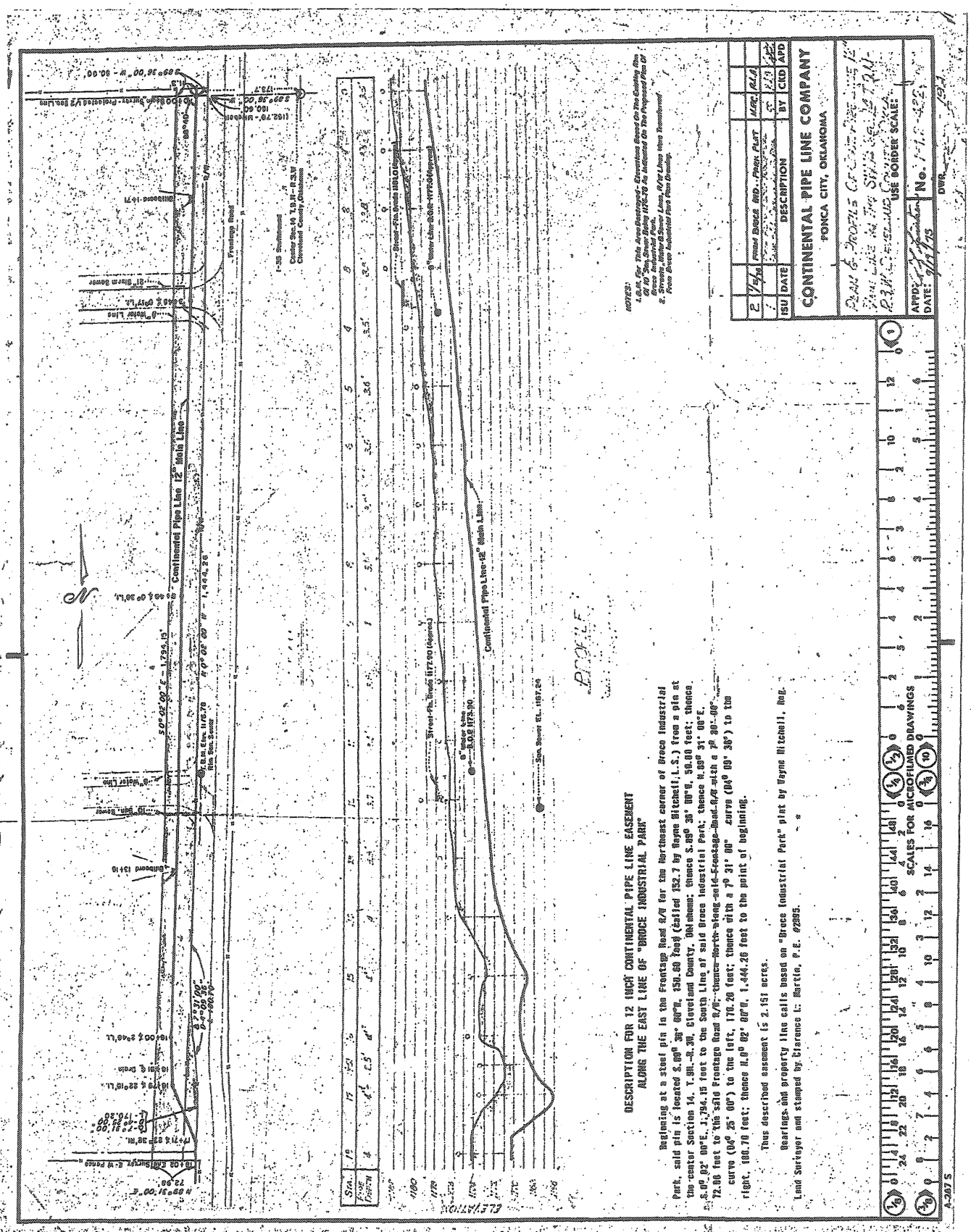
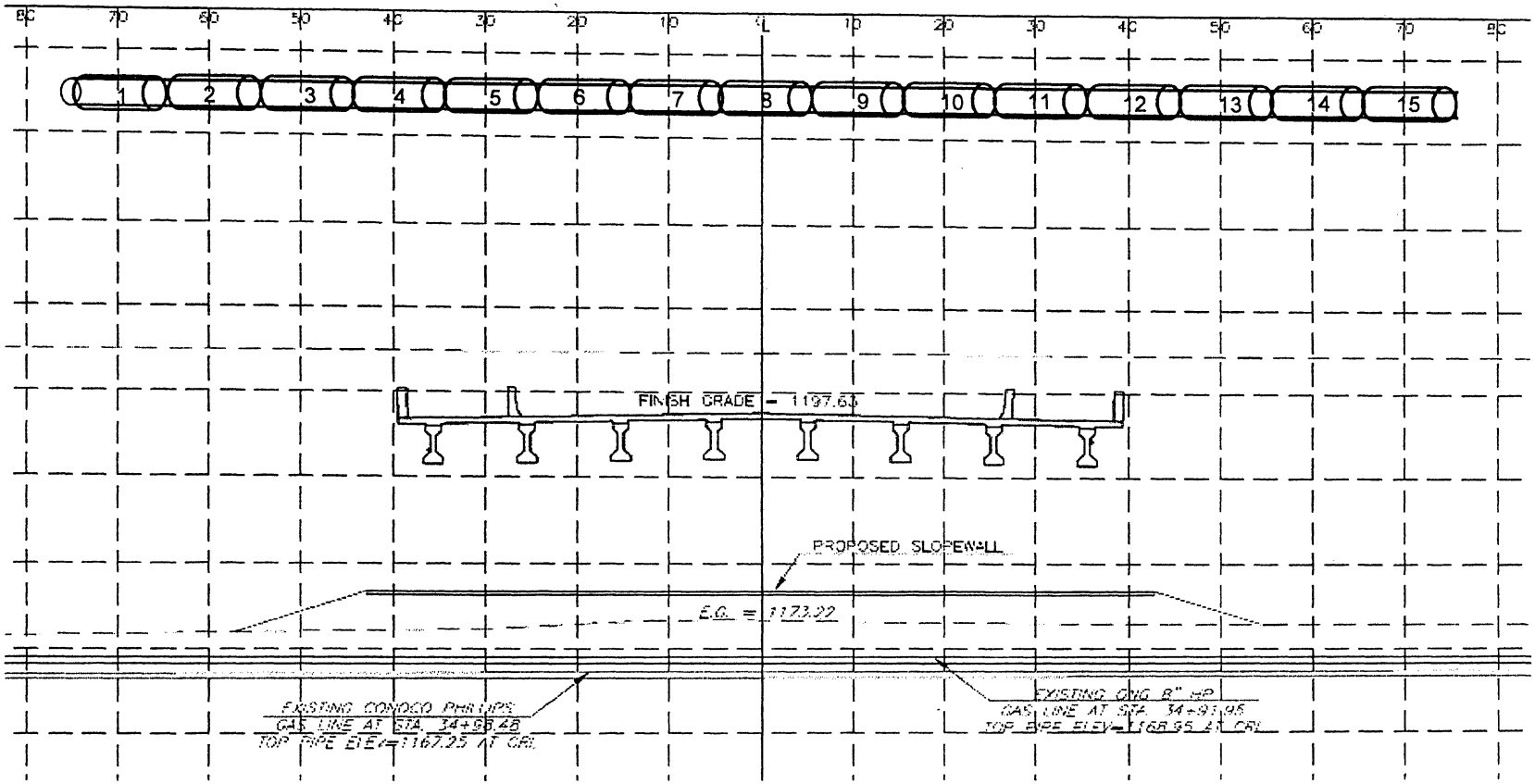

DESCRIPTION FOR 12 INCH CONTINENTAL PIPE LINE EASEMENT
ALONG THE EAST LINE OF "BRUCE INDUSTRIAL PARK"
Beginning at a steel pin in the Frontage Road R/W for the Northeast corner of Bruce Industrial Park, said pin is located S.89° 38' 00"W. 150.00 feet (called 152.7 by Wayne Mitchell, L.S.) from a pin at the center Section 14, T.9N.-R.3W. Cleveland County, Oklahoma; thence S.89° 38' 00"W. 56.00 feet; thence S.89° 02' 00"E. 1,794.15 feet to the South Line of said Bruce Industrial Park; thence N.89° 31' 00"E. 72.00 feet to the said Frontage Road R/W; thence North along said Frontage Road R/W with a 7° 00' 00" curve (04° 25' 00") to the left, 176.20 feet; thence with a 7° 31' 00" curve (04° 09' 36") to the right, 188.78 feet; thence N.89° 02' 00"W. 1,444.26 feet to the point of beginning.
Thus described easement is 2.151 acres.
Bearings and property line calls based on "Bruce Industrial Park" plat by Wayne Mitchell, Reg. Land Surveyor and stamped by Clarence L. Martin, P.E. #2895.
CONTINENTAL PIPE LINE COMPANY
PONCA CITY, OKLAHOMA
USE BORDER SCALES
SCALES FOR MICROFILMED DRAWINGS
A-287 S

Exhibit "B"

**Half Sole Repair/Reinforcement Sleeve, in 180° segments, with long edges beveled 30°:**
**Specification: 12.75" x .375"_ASTM A 572 Grade 50**




K-0910-130

Exhibit "C"

CONOCOPHILLIPS PIPE LINE COMPANY
COST ESTIMATE

Location Rock Creek Road Date 12/7/2009
Description of Job: Install Full Encirclement Sleeve

| UNIT | CLASS | ITEM | DESCRIPTION | | QTY | Price | TOTAL |
|---|---|---|---|---|---|---|---|
| | | | **MATERIALS:** | | | | |
| | | | Half Sole Repair/Reinforcement Sleeve, in 180° segments, with long edges beveled 30°: | | 300 | $57.66 | $17,298.00 |
| | | | Corrosion Tape and Primer ( 4 cases tape & 4 gallons primer) | | 1 | $1,900.00 | $1,900.00 |
| | | | Indirect material costs | 5% | | | $959.90 |
| | | | **FREIGHT** (ENTER PERCENTAGE) | 8% | | | $1,612.63 |
| | | | **TAXES** (ENTER PERCENTAGE) | 8.75% | | | $1,904.92 |
| | | | **LABOR:** | | | | |
| | | | Mechanical Contractor ( 2 Weeks) | | 1 | $60,000.00 | $60,000.00 |
| | | | Pfinde (UT & Mag Particle Testing) | | 2 | $1,500.00 | $3,000.00 |
| | | | Construction Field Representative ( 2 weeks) | | 2 | $5,000.00 | $10,000.00 |
| | | | Corrosion Technician | | 2 | $750.00 | $1,500.00 |
| | | | **INDIRECT LABOR/EQUIP.** (ENTER PERCENTAGE) | 0% | | | $0.00 |
| | | | **TIE-INS:** | | | | |
| | | | **INDIRECT LABOR/EQUIP.** (ENTER PERCENTAGE) | 0% | | | $0.00 |
| | | | **ENGINEERING/PROJ. MGMT.** | 0% | | | |
| | | | Kiefner & Assoc. (Pile Driving Impact Analysis) | | 1 | $2,500.00 | $2,500.00 |
| | | | **OTHER: COMPANY OVERHEAD** | 15% | | | $15,101.32 |
| | | | **CONTINGENCY:** | 10% | | | $11,577.68 |
| | | | **GRAND TOTAL:** | | | | **$127,000.00** |

Prepared by: David Haller Date: 12/7/2009

Reviewed by: Date:

Sheet 1 of 2

Exhibit "C"

**Project Title: Rock Creek Road Bridge Project (City of Norman)**

**Project Definition: The City of Norman will be impacting the Wichita Falls 12" Pipeline System by installing a bridge slope wall on top of the pipeline. The slope wall will encumber future pipeline maintenance by increasing the pipeline's depth and by the burial of the pipeline below a permanent concrete cap.**

**Protective Action: To help mitigate the additional depth and lack of access, a full encirclement sleeve system will be utilized to provide additional protection and strength to the pipeline crossing parallel to the slope wall. In addition to the full encirclement sleeve installation, Keifner and Assoc. will be contracted to provide an analysis of the affect pile driving will have on the pipeline.**

**Scope of Work:**

**Material Procurement**
**Engineering Analysis**
**OKIE ONE CALL**
**Contractor Mobilization / Site Orientation**
**Material transfer OKC Terminal to job site**
**Pipeline located, excavated, and barricaded**
**Pipeline coating removal and testing**
**Bare pipe prepared for full encirclement sleeve system**
**Install full encirclement sleeve system**
**Check integrity of all welds by performing a magnetic particle and dye penetrant inspection.**
**Prepare full encirclement sleeve system for corrosion protection tape system.**
**Apply Polyguard 600 liquid adhesive primer**
**Apply Polyguard RD-6 protective wrap**
**Backfill trench**
**Contractor de-mobilizes**

Sheet 2 of 2

# ENCROACHMENT AGREEMENT

STATE OF OKLAHOMA

COUNTY OF CLEVELAND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, ConocoPhillips Pipe Line Company, a Delaware Corporation, (hereinafter referred to as "Permittor"), is the current owner of right-of-way as specified in an instruments dated the 22nd day of May, 1953 covering lands in Cleveland County, State of Oklahoma, said instrument being filed of record in Book 194, Page 353 of the Deed Records of Cleveland County, **Oklahoma** (hereinafter referred to as the "Right-of-Way"), and

WHEREAS, Permittor owns and operates a 12 inch pipeline(s) in the lands covered by Permittor's Right of Way; and

WHEREAS, City of Norman, (hereinafter referred to as "Permittee", whether one or more) with an address of 201 W. Gray, Norman, OK is the owner of the property which is subject to the above specified Right-of-Way, said tract being described as Rock Creek Overpass per map attached marked exhibit "A "in the Deed filed of record in Cleveland County Records; and

WHEREAS, Permittee has requested permission to encroach upon Permittor's Right-of-Way located on Permittee's land specified above by constructing a bridge abutment within the 12 inch Crude pipe line right of way (hereinafter referred to as the "Encroachment, whether one or more"); and

WHEREAS, Permittor is agreeable to permitting said Encroachment subject to the exhibits, terms and conditions of this Encroachment Agreement ("Agreement").

NOW, THEREFORE, for and in consideration of Ten Dollars ($10.00), and of the premises and of the covenants hereof contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Subject to the terms and conditions of this Agreement, Permittor hereby consents to the placement and maintenance of the Encroachment within the Right-of-Way as are specifically described and/or depicted on Exhibit "A", attached hereto and made a part hereof. The Encroachment within the Right-of-Way shall be placed only in the locations as described and/or depicted on Exhibit "A". Any changes in the nature or location of the Encroachment shall require the prior written approval of Permittor.

2. Permittee has been advised, and is fully aware, that Permittor now has, and shall continue to have, the right to utilize the land within the Right of Way and Permittor is hereby granted the right to use additional workspace outside of said Right-of-Way for pipeline purposes; that in so doing, Permittor may, at any time and from time to time, and without liability to Permittee, enter upon said land, place and transport machinery and equipment thereon, excavate trenches or ditches thereon, and perform other pipeline operations and related activities thereon, any of which may damage or destroy the Encroachment. Permittee agrees that Permittor shall have no obligation to repair, restore or replace the Encroachment or to compensate Permittee for any damage to or destruction of the Encroachment arising out of any such Permittor activity. Permittee also agrees that Permittor shall not be responsible or liable for, and Permittee hereby releases Permittor from, any lost business or consequential damages resulting from Permittor's above described activities, howsoever caused.

3. Permittee shall give Permittor at least ten (10) days written notice before commencing any construction, maintenance or replacement of the Encroachment on the Right-of-Way, or movement of

equipment across the Right-of-Way, in order that Permittor shall have an opportunity to have an inspector or representative present during the time such activities are carried out and so that Permittor's pipeline(s) can be staked to minimize the possibility of damage and. Notice is to be given to the following individual at the listed address and phone number:

ConocoPhillips Pipe Line Company
Bobby Joe Sharp
201 N.W. 63rd Oklahoma City, Oklahoma 73116
405-879-4840 office 405 879-4855 fax

4. Any future encroachments on, or disturbances of, Permittor's Right-of-Way are forbidden unless permitted by a separate fully executed Encroachment Agreement. Permittee will not excavate, nor permit others to excavate, on Permittor's Right-of-Way for subgrade preparations or for any other purposes, except as allowed by this Agreement. Permittee, at its sole cost and expense, shall at all times maintain the Encroachment in a condition which will not interfere with or endanger Permittor's pipeline(s) or the operation of such pipelines located within Permittor's Right-of-Way.

5. Nothing in this Agreement shall be construed as a grant of any of Permittor's rights in the Right-of-Way instrument specified above and this Agreement shall in no way limit or impair said rights.

6. If it becomes necessary in Permittor's sole judgment, to lower or relocate Permittor's pipeline(s) as a result of any encroachment by Permittee within the Right-of-Way, other than the Encroachment, such lowering or relocating of the pipeline(s) shall be undertaken by Permittor at the sole cost and expense of Permittee, including (without limitation) the cost of acquiring any additional right-of-way. Any relocation of the pipeline(s), as well as the relocation route, shall be at the sole discretion of Permittor.

7. Permittor shall have the right to adequately mark its pipeline(s) with permanent line markers and ground placards to promote public safety and the future safe operation of said pipeline(s), and to meet applicable governmental regulations.

8. Permittee represents and warrants that it is in compliance with and shall continue to comply with all of the terms and conditions set forth in the "Additional Right-of-Way Encroachment Terms & Conditions" attached hereto as Exhibit "B".

9. **PERMITTEE SHALL PROTECT RELEASE, INDEMNIFY, DEFEND AND HOLD PERMITTOR, ITS PARENTS, SUBSIDIARIES, AFFILIATES, CONTRACTORS AND SUBCONTRACTORS, THEIR SUCCESSORS AND ASSIGNS, AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (HEREINAFTER COLLECTIVELY REFERRED TO AS THE "INDEMNIFIED PARTIES"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, FINES, PENALTIES, DAMAGES, DEMANDS, SUITS, CAUSES OF ACTION, JUDGMENTS, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES, COSTS OF LITIGATION AND/OR INVESTIGATION AND OTHER COSTS ASSOCIATED THEREWITH), AND LIABILITIES, OF EVERY KIND , (COLLECTIVELY REFERRED TO HEREAFTER AS "CLAIMS"), INCLUDING WITHOUT LIMITATION THOSE RELATING TO LOSS OF OR DAMAGE TO ANY PROPERTY (INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL DAMAGES, POLLUTION OR CONTAMINATION), AND INJURY TO OR DEATH OF ANY PERSONS, IN ANY WAY ARISING OUT OF, CONNECTED WITH OR RESULTING FROM THE EXERCISE OF ANY OF THE RIGHTS IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE CONSTRUCTION, PRESENCE, MAINTENANCE, USE, REPAIR OR REMOVAL OF THE PERMITTED ENCROACHMENT, OR ANY BREACH OF THIS AGREEMENT BY PERMITTEE OR BY ANYONE ACTING ON BEHALF OF PERMITTEE, REGARDLESS OF THE CAUSE OR CAUSES THEREOF, INCLUDING WITHOUT LIMITATION ANY CLAIMS CAUSED BY OR CONTRIBUTED TO, IN WHOLE OR IN PART, BY THE INDEMNIFIED PARTIES' SOLE, JOINT OR CONCURRENT NEGLIGENCE OR FAULT (WHETHER IMPOSED BY STATUTE, RULE, REGULATION OR OTHERWISE) AND STRICT LIABILITY, EXCEPT TO THE EXTENT ANY SUCH CLAIMS ARE**

**CAUSED BY THE INDEMNIFIED PARTIES' WILLFUL MISCONDUCT.**

10. This Agreement shall be a covenant running with the property rights under which Permittee is conducting its activities on Permittor's Right-of-Way.

11. Permittee may not assign its rights hereunder without prior written notice to Permittor of such assignment; nevertheless, the provisions hereof shall extend to, be binding upon, and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

EXECUTED on the dates set forth in the acknowledgments, but effective for all purposes as of the _____ day of_____, 200__ (the "Effective Date").

PERMITTOR

ConocoPhillips Pipe Line Company

Signature:_____

Printed Name:_____

[CORPORATE ACKNOWLEDGEMENT]

STATE OF OKLAHOMA §
§
COUNTY OF §

On this _____ day of _____, 200__, before me _____ , the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as _____, of _____, and acknowledged that he/she, as such _____being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said _____ by himself/herself as _____.

_____
NOTARY PUBLIC

My commission expires:
_____

PERMITTEE

City of Norman

By: _____

Title: Mayor

**ATTEST:**

_____

**City Clerk**

APPROVED BY CITY OF NORMAN LEGAL DEPARTMENT
BY: _____ DATE 2/18/10

STATE OF OKLAHOMA §
§
COUNTY OF CLEVELAND §

On this _____ day of _____, 200__, before me _____, the undersigned officer, personally appeared _____, who, being by me duly sworn did say that he/she executed the foregoing instrument, and acknowledged that he/she executed it as his/her free act and deed.

_____
NOTARY PUBLIC

My commission expires:

_____

349

3695

STATE OF OKLAHOMA
COUNTY OF CLEVELAND
FILED FOR RECORD
May 22 1952 at 9:30 AM
Book 194 Page 349
HELEN JANSING, Clerk
By Edith Hill Deputy

F 7-2-8
REV. 8-1-51

# RIGHT OF WAY CONTRACT

File No.

FOR AND IN CONSIDERATION of the sum of One Hundred Forty ~~Two~~ Dollars ($ 110.00), in hand paid, the receipt of which is hereby acknowledged, H. D. Mosier and Ida Mosier hereinafter referred to as Grantor, (whether one or more), does hereby grant unto Continental Pipe Line Company, a corporation, hereinafter referred to as Grantee, its successors and assigns, the right to lay, maintain, inspect, alter, repair, operate, remove and relay a pipe line, or pipe lines, for the transportation of oil and gas and products and by-products thereof, water and other substances, and such drips, valves, fittings, meters and other equipment and appurtenances as may be necessary or convenient for such operations, and to erect, maintain, inspect, repair, operate and remove, upon a single line of poles, with necessary anchorage and appurtenances, telephone, telegraph or electrical lines, or any of them, over, through, upon, under and across the following described land in Cleveland County, State of Oklahoma, to-wit:

North 100 acres of the Southwest Quarter (SW¼) Section 14, Township 9 North, Range 3 West

Telephone lines to be in or on outside fence lines.

Together with the rights of ingress and egress to and from said line or lines, or any of them, for the purpose aforesaid. Grantor to have the right to fully use and enjoy the above described premises, except as to the rights hereinbefore granted; and Grantee hereby agrees to pay any damages which may arise to crops, pasturage, fences or buildings of said Grantor from the exercise of the rights herein granted, said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by Grantor, one by Grantee, and the third by the two so appointed, and their written determination of amount to be final and conclusive.

Should more than one pipe line be laid under this grant, at any time, an additional consideration, calculated on the same basis per lineal rod as the consideration hereinabove recited, shall be paid for each line so laid after the first line.

Grantee shall bury pipe lines below plow depth.

TO HAVE AND TO HOLD said easement, rights, and rights of way unto the said Grantee, its successors and assigns until said easement be exercised, and so long thereafter as the same shall be useful for the above named purposes.

It is understood that the person securing this grant is without authority from Grantee to make any agreement in respect of the subject matter hereof not herein expressed.

This agreement is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Executed this 11 day of April 1952

In the presence of: Earl H. Fields

H. D. Mosier
Ida Mosier

Tract No. 31
No. of Rods 110
Check No. 76753
Charge AFE 7050 JO 20

Copy to Gram } 4-11-73
Copy to Giggey
Copy to Ray Barrett 5/25/72

OK-CL-337
TRACT # RODS 110
MAP SALN-1-1.2-55

RW 1952-0632-00

350

3695

(Individual Acknowledgment for Kansas, Oklahoma, Missouri)

STATE OF Oklahoma
COUNTY OF Oklahoma } SS.

BEFORE ME, the undersigned, a Notary Public, within and for said County and State, on this 11th day of April, 1952, personally appeared H. D. Mosier and Ida Mosier, husband and wife, known to me to be the identical persons described in and who executed the within and foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses, purposes, and consideration therein set forth.

My commission expires
November 21, 1954

John Paul [illegible]
Notary Public.

(Joint Acknowledgment)

THE STATE OF TEXAS
COUNTY OF _____ } SS.

BEFORE ME, _____, Notary Public in and for _____ County, Texas, on this day personally appeared _____, known to me to be the person whose name _____ subscribed to the foregoing instrument, and acknowledged to me that _____ executed the same for the purposes and consideration therein expressed.

Also before me on this day personally appeared _____ wife of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said _____ ~~acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for~~ the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this _____ day of _____, A. D., 19____

_____
Notary Public.

_____ County, Texas

14-9-3W

RIGHT OF WAY CONTRACT

FROM:

H.D. Mosier and
Ida Mosier

TO:

Continental Pipe Line Co.

5-22-52

Book 194 Pg. 349

RECORDED

Continental Oil Co.
Drawer 1267
Ponca City, Okla.
3695

2.10

Recording Information:
Book 579 Page 192
Cleveland County, Oklahoma
Date Recorded: 10-24-74

PARTIAL RELEASE OF RIGHT OF WAY GRANT

KNOW ALL MEN BY THESE PRESENTS:

That CONTINENTAL PIPE LINE COMPANY, a Delaware corporation does hereby release, relinquish and surrender all of its right, title and interest in the following described right of way grant dated April 11, 1952, from H. D. Mosier and Ida Mosier, to Continental Pipe Line Company, which agreement is recorded in book 194, page 349, of the records of Cleveland County, Oklahoma, insofar and only insofar as said right of way covers:

A tract of land extending 1813.15 feet South from the "East-West" Center Section Line of the North 103.83 acres (more or less) of the Southwest Quarter (SW/4) Section 14, Township 9 North, Range 3 West, Cleveland County, Oklahoma.

EXCEPT THE FOLLOWING PORTION:

An Easement described as follows:

Beginning at a steel pin in the frontage road R/W for the Northeast Corner of Broce Industrial Park, said pin located S. 89° 36' 00"W, 150.60 feet (called 152.7 by Wayne Mitchell,L.S.) from a pin at the Center Section 14, T9N-R3W, Cleveland County, Oklahoma; thence S. 89° 36' 00"W 50.00'; thence S. 0° 02' 00"E 1,813.15' to the South line of said Broce Industrial Park; thence N. 89° 31' 00" E 72.98' to the said frontage road R/W; thence along said frontage road R/W N 0° 02' 00"W 19.0'; thence continuing Northerly along said frontage road R/W with a 7° 31' 00" curve (D4° 25' 00") to the left 170.20'; thence with a 7° 31' 00" curve (D4° 09' 36") to the right, 180.70'; thence N 0° 02' 00"W 1,444.26' to the point of beginning.

Thus described easement is 2.183 acres.

Bearings and property line calls based on "Broce Industrial Park" plat by Wayne Mitchell, Reg. Land Surveyor, and stamped by Clarence L. Martin, P.E. #2995.

And save and except the right of ingress and egress across Owner's land adjacent to said strip for the purpose of exercising any and all of the rights which Company has under the easement first hereinabove described, all of which rights are specifically reserved with regard to said strip.

As to the excepted and unreleased real estate, said right of way grant shall be and remain in full force and effect according to the terms thereof.

RW 1952-0632-01

NL 5-12

27876

In consideration for execution of this Partial Release, the landowner agrees no structures shall be erected or maintained upon the easement not released by this instrument.

In the event it becomes necessary to lower or relocate the pipeline as a result of grading or improvements performed by the landowner, the landowner agrees to notify CONTINENTAL PIPE LINE COMPANY and to bear the expense of lowering or relocating the pipeline.

In the event that any portion of the easement not released by this instrument is subdivided, conveyed or dedicated for use as a public or private roadway of any type, then landowner agrees to notify CONTINENTAL PIPE LINE COMPANY and to bear the expense of lowering and casing the pipeline, if necessary, and properly marking in a manner acceptable to CONTINENTAL PIPE LINE COMPANY.

The terms, conditions and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

EXECUTED this 22nd day of October, 1974.

CONTINENTAL PIPE LINE COMPANY

ATTEST:

Secretary

By

President

Bruce Const. Co. of Okla. Inc

Landowner

by

Attorney-in-Fact

Landowner

STATE OF TEXAS )
) SS.
COUNTY OF HARRIS )

Before me, Beverly Fallwell, a Notary Public in and for said state, on this 22nd day of October, 1974, personally appeared N. B. Mauro, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as its President, and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation for the uses and purposes therein set forth.

Beverly Fallwell
Notary Public

My Commission Expires
June 1, 1975

BEVERLY FALLWELL
Notary Public in and for Harris County, Texas
My Commission Expires June 1, 1975

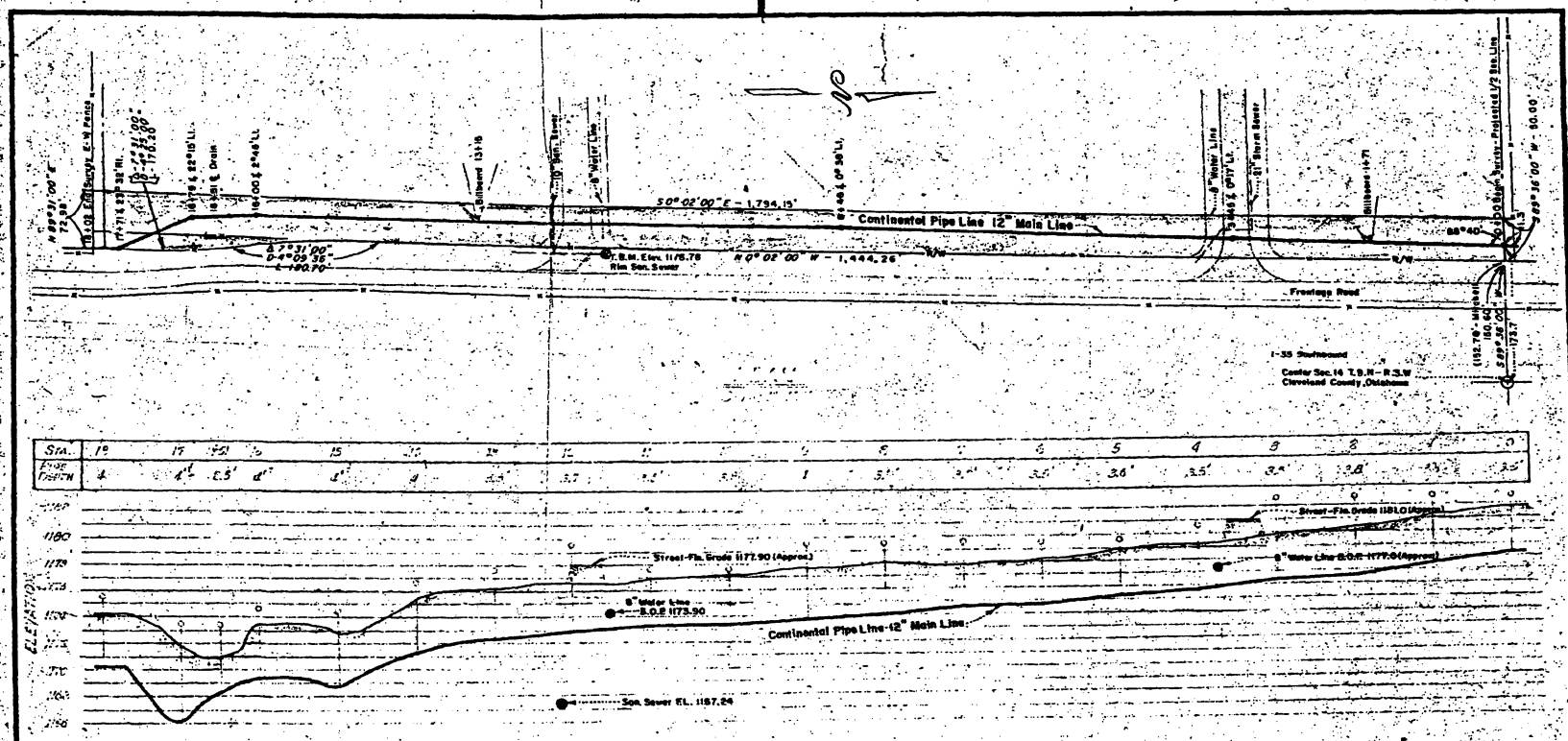
STATE OF OKLAHOMA )
) SS:
COUNTY OF CLEVELAND )

Before me the undersigned, a notary public in and for said county and state, personally appeared A. A. Vance, Jr., known to me to be the person whose name is subscribed to the foregoing instrument and known to me to be the person whose name is subscribed as Attorney-in-Fact for BROCE CONSTRUCTION CO. OF OKLAHOMA, INC., a corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act of said corporation.

Given under my hand and seal of office this 14th day of October, 1974.

Peggy W. Rhoton
Notary Public

My Commission expires Nov. 19, 1977.




## DESCRIPTION FOR 12 INCH CONTINENTAL PIPE LINE EASEMENT ALONG THE EAST LINE OF "BROCE INDUSTRIAL PARK"

Beginning at a steel pin in the Frontage Road R/W for the Northeast corner of Broce Industrial Park, said pin is located S.89° 36' 00"W, 150.60 feet (called 152.7 by Wayne Mitchell, L.S.) from a pin at the center Section 14, T.9N.-R.3W, Cleveland County, Oklahoma; thence S.89° 36' 00"W, 50.00 feet; thence S.0° 02' 00"E, 1,794.15 feet to the South Line of said Broce Industrial Park; thence N.89° 31' 00"E, 72.88 feet to the said Frontage Road R/W; thence North along said Frontage Road R/W with a 7° 30' 00" curve (04° 25' 00") to the left, 170.20 feet; thence with a 7° 31' 00" curve (04° 09' 36") to the right, 180.70 feet; thence N.0° 02' 00"W, 1,444.26 feet to the point of beginning.

Thus described easement is 2.151 acres.

Bearings and property line calls based on "Broce Industrial Park" plat by Wayne Mitchell, Reg. Land Surveyor and stamped by Clarence L. Martin, P.E. #2995.

NOTES:
1. B.M. For This Area Destroyed - Elevations Based On The Existing Rim Of 10" San. Sewer Being 1176.78 As Indicated On The Proposed Plan Of Broce Industrial Park.
2. Streets, Water & Sewer Lines, R/W Lines Were Transferred From Broce Industrial Park Plan Drawing.

| ISU | DATE | DESCRIPTION | BY | CKD | APD |
|---|---|---|---|---|---|
| 2 | 1/15/74 | FROM BROCE IND. PARK PLAT | M.P.C. | R.L.A. | |
| 1 | | | | | |

**CONTINENTAL PIPE LINE COMPANY**
PONCA CITY, OKLAHOMA

PLAN & PROFILE OF CONT. PIPE LINE 12" MAIN LINE IN THE SW¼ SEC. 14 T.9N-R.3W CLEVELAND COUNTY, OKLA.

USE BORDER SCALE:

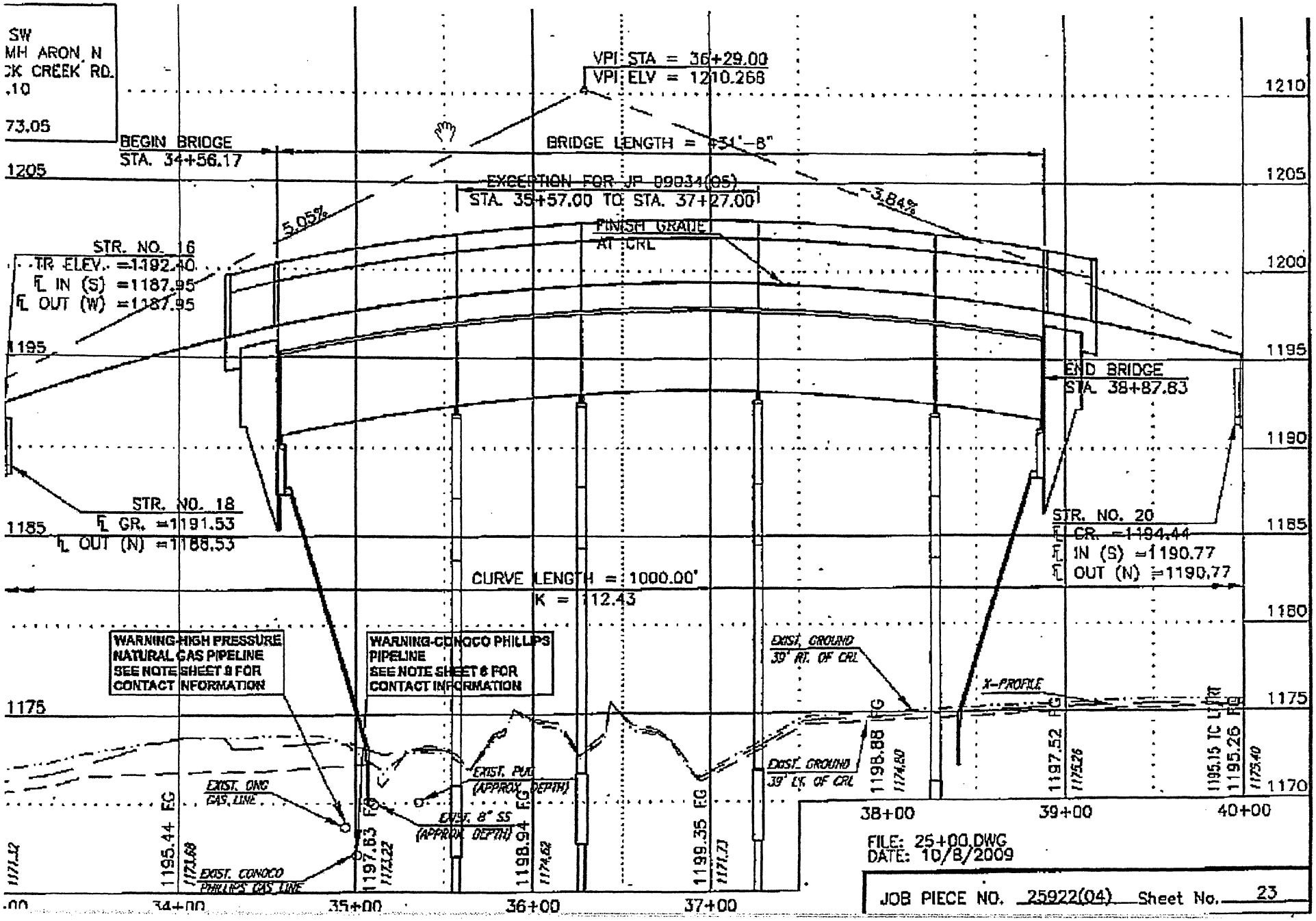
APPD: [signature]
DATE: 9/19/75
No. 1-1.2-432
DWR. [illegible]

SCALES FOR MICROFILMED DRAWINGS

A-287 S

Sheet 1 of 7

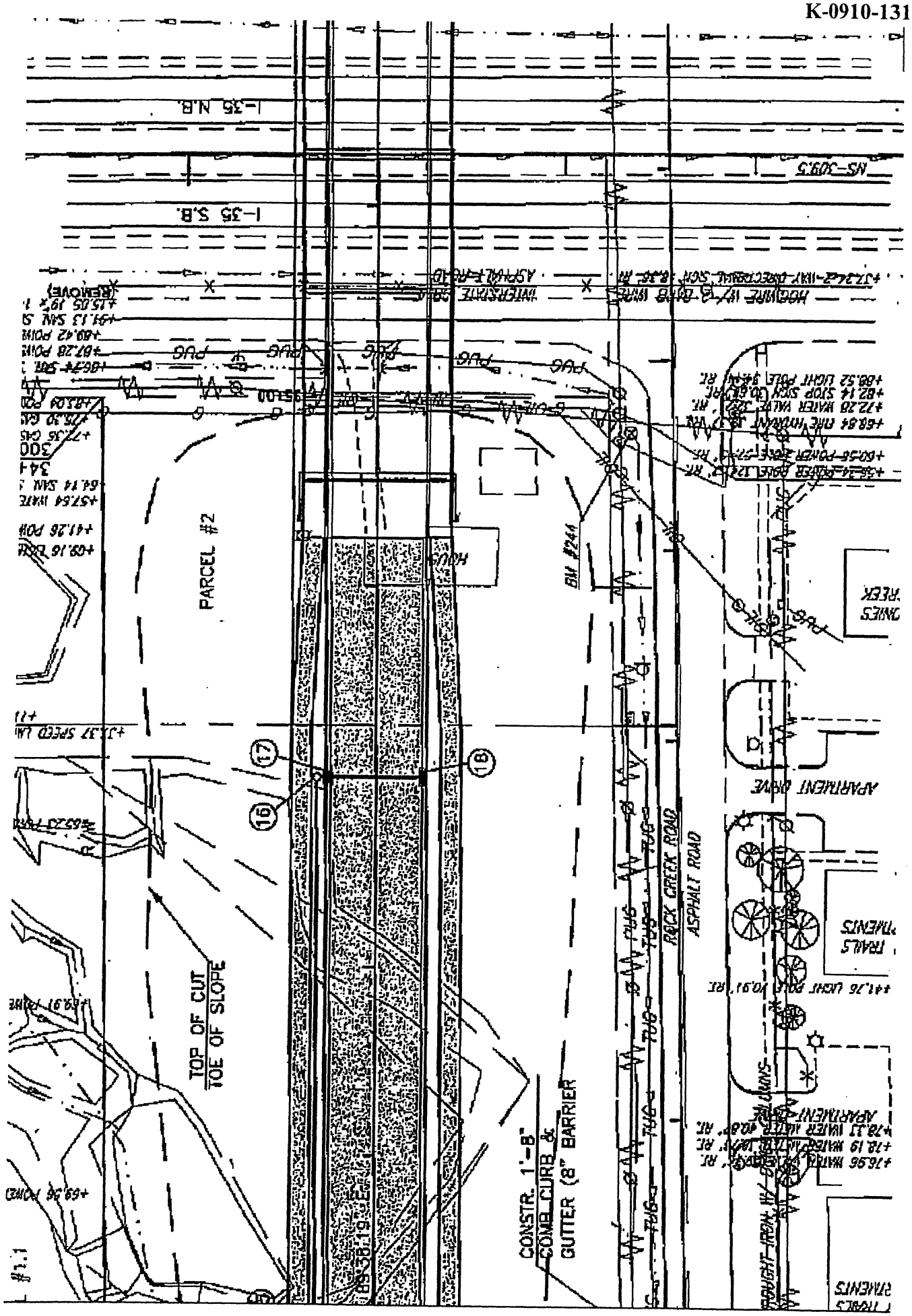
Exhibit "A"




Sheet 2 of 7

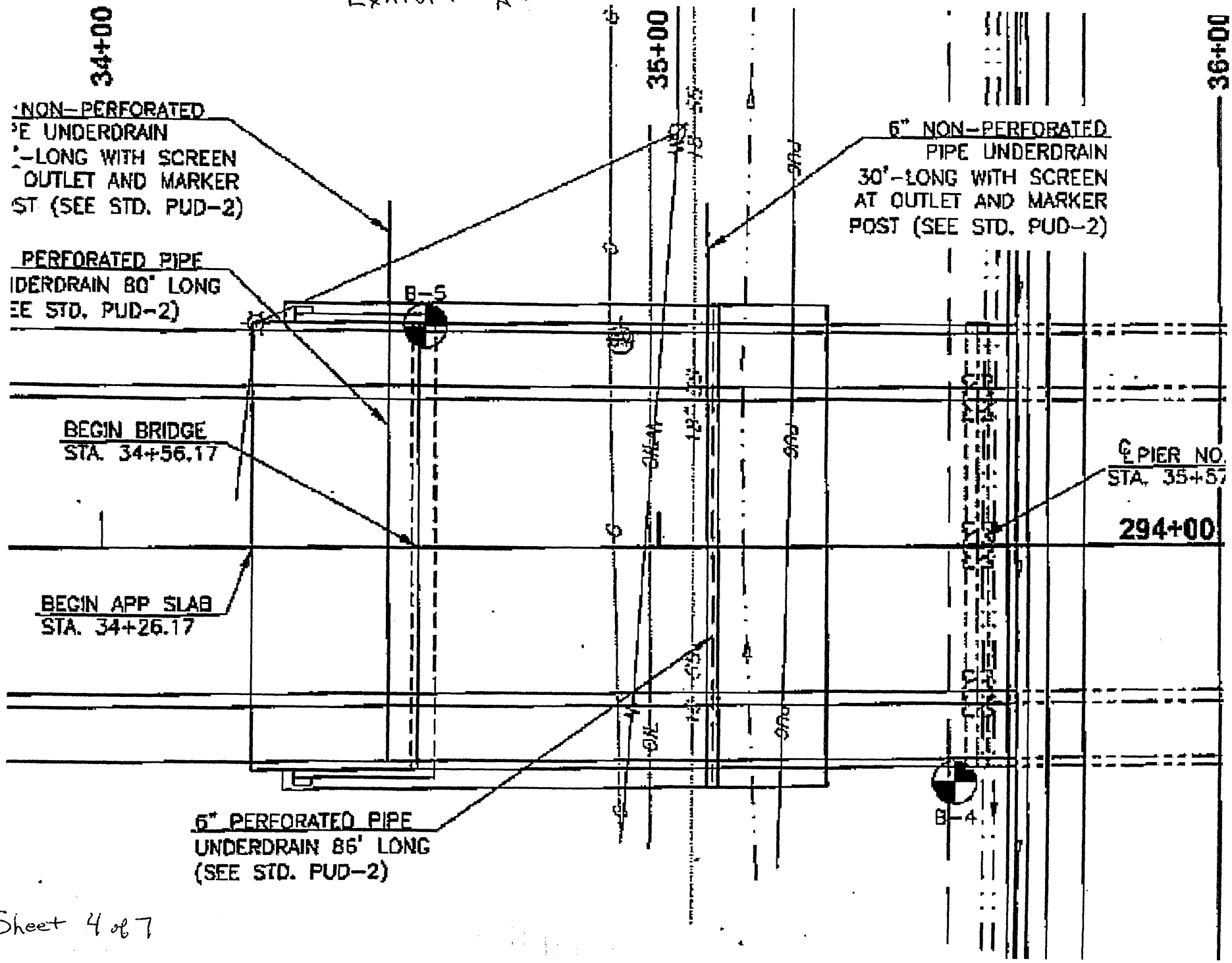
K-0910-131

17-27


I-35 N.B.
I-35 S.B.
PARCEL #2
TOP OF CUT
TOE OF SLOPE
CONSTR. 1'-8"
COMB. CURB &
GUTTER (8" BARRIER
ROCK CREEK ROAD
ASPHALT ROAD
APARTMENT DRIVE
BM #244
16
17
18

Sheet 3 of 7

Exhibit "A"

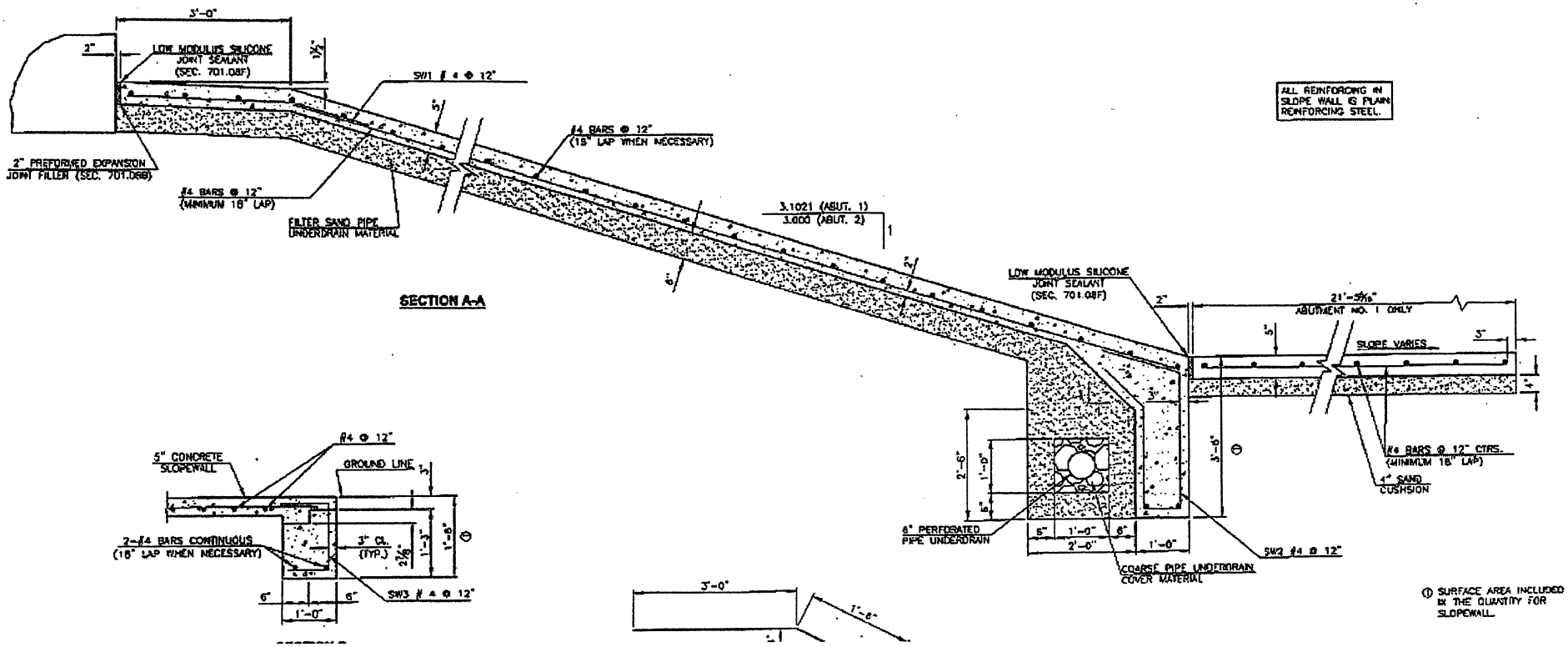



Sheet 4 of 7



K-0910-131

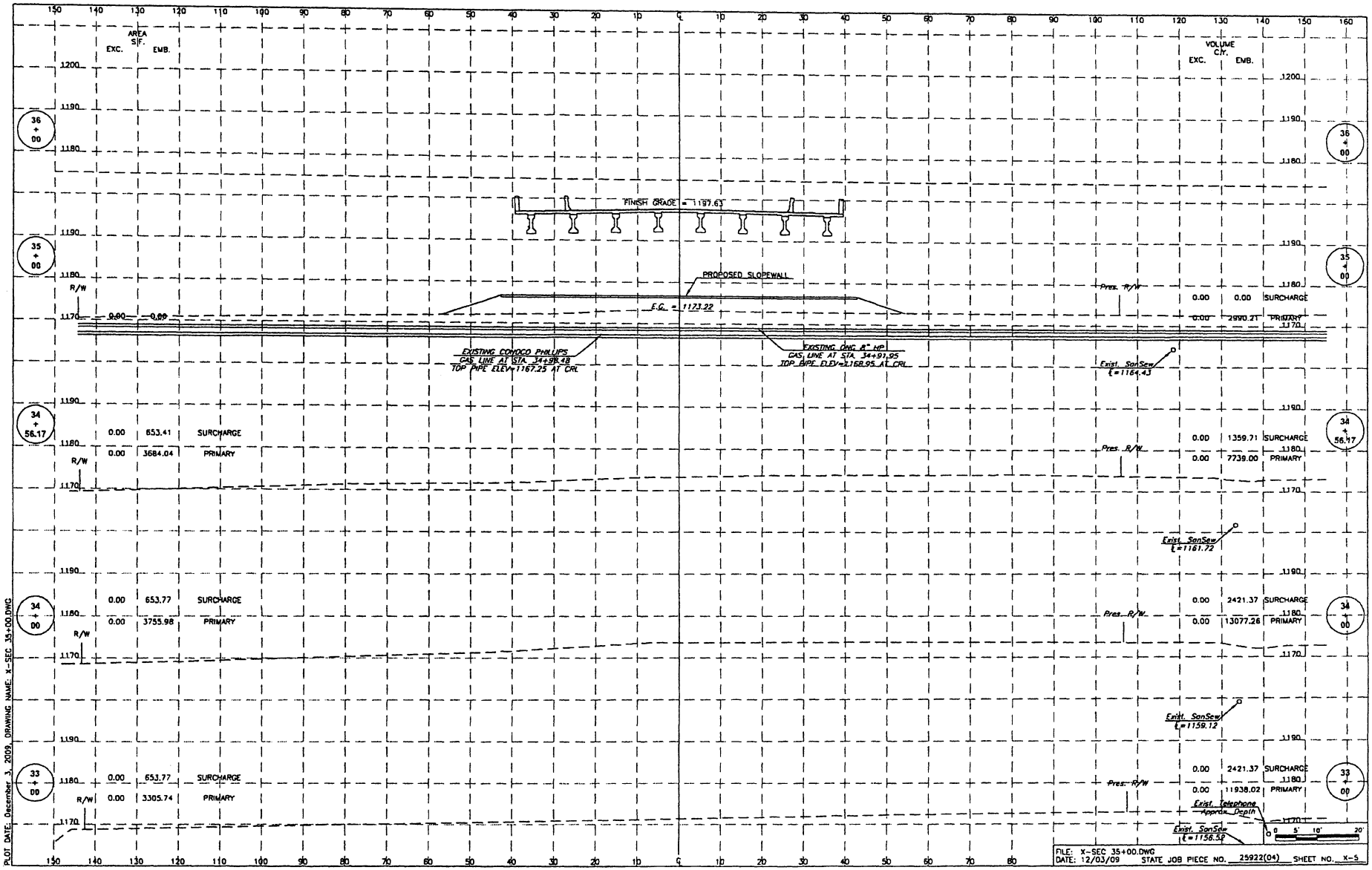
Exhibit "A"




K-0910-131

Sheet 5 of 7

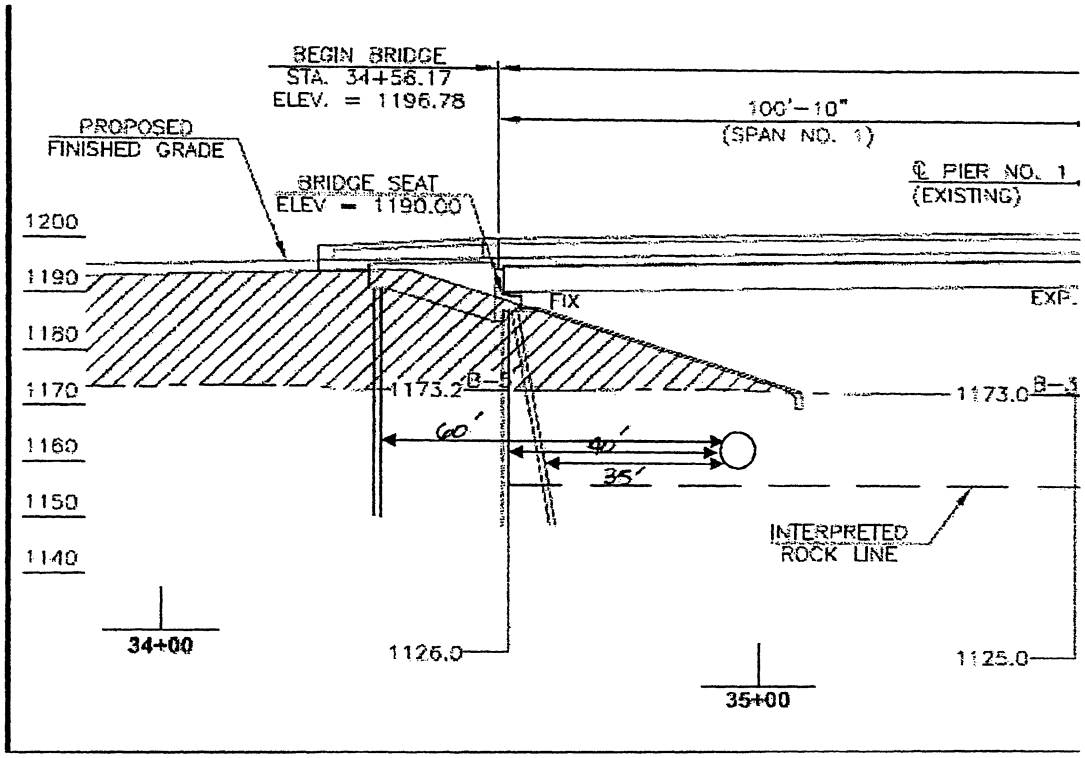
Exhibit "A"




Sheet 6 of 7

K-0910-131

Exhibit "A"




Sheet 7 of 7

**EXHIBIT "B"**

CONOCOPHILLIPS PIPE LINE COMPANY ENCROACHMENT GUIDELINES

1. Company (Permittor) operates and maintains its pipelines in compliance with current U.S. Department of Transportation (DOT) regulations and industry and Company standards for safe operations. Should Encroaching Party (Permittee) propose plans to alter the area through which Permittor's pipeline(s) pass, causing such pipeline(s) not to meet these requirements, modifications to the pipelines or plans will be made. **The cost of all such modifications will be borne by the Permittee**.

2. Permittee requesting Permittor to restrict the Right-of-Way (ROW) width will have a centerline survey of the line completed across his land by a registered land surveyor at the Permittee's expense. The Permittee will provide proof of ownership of the property (i.e., warranty deed).

3. No buildings, engineering works, patios, in-ground swimming pools, septic systems, or other permanent structures will be permitted on the ROW. No temporary structures, storage containers, construction equipment or vehicle parking will be permitted within the ROW without Permittor's prior written approval. No manned structures, temporary or permanent will be approved. Retaining walls are not permitted. This includes all water retention devices. Large debris such as old cars, trailers, scrap metal, etc., will not be permitted on the ROW. The ROW must be kept clear for maintenance.

4. All buildings and other permanent structures must comply with a building setback of 50 feet from the pipeline(s), and this setback requirement will be included as a deed restriction on any parcel carved out of the above referenced lands that abut the ROW. For a single line easement, a strip of land 100 feet wide, centered on the pipeline, must be maintained. A greenbelt area will be established around the pipelines within a new proposed development whenever possible, with no lot lines or fences across the ROW or centered on the pipeline(s).

5. No fences will be allowed on the ROW without Permittor's prior written approval. Fences must be easily removable and not obstruct the view of the ROW for inspection purposes. No masonry, brick, or stone fences will be allowed. Fences that are perpendicular to the pipeline(s) must include a gate or other form of access across the width of the ROW. Fence posts shall not be placed within 4 feet of the pipeline(s). Fences that are parallel to the pipeline(s) must be located at least 10 feet from the nearest pipeline(s), or 25 feet if located on both sides of the line.

6. No utility poles will be allowed to cross the ROW if they interfere with future maintenance. Utility poles, guy wires, or anchors shall not be placed within 8 feet of the pipeline(s). Utility poles running parallel to the pipeline(s) must be located at least 25 feet from the nearest pipeline(s).

7. Trees or deep-rooted plants are not permitted on the ROW. Existing trees may be removed or side trimmed by Permittor if in their sole discretion, such trees interfere with their ability to maintain or monitor the pipelines.

8. For new roads running parallel to Permittor's pipeline(s), there must be at least 25 feet from the edge of the road to the nearest pipeline. All roads passing over Permittor's pipeline(s) shall cross at an angle as close to 90 degrees as possible. Depth of cover shall be at least 36 inches (48 inches for HVL lines) in the barrow ditches and 48 inches under road surfaces from top of pipe to top of surface. In addition, it may be necessary to lower and recondition, replace, relocate, or protect the pipeline(s) at the point of crossing to insure that they are not subjected to excessive stress from movement of traffic. Any such modification to the pipeline(s) will be made at Permittee's expense.

9. Construction of parking lots over the pipeline(s) will not be permitted without Permittor's prior written approval and a hold-harmless agreement releasing Permittor from any and all future damages to

the parking lot due to pipeline maintenance and repair. Depth of cover must be at least 48 inches from top of pipe to top of finished surface. Concrete parking lots must have jointed sections at no more than 20-foot intervals for ease of repair.

10. Any utilities that parallel Permittor's pipeline(s) will maintain a minimum separation distance of 25 feet from the utility's outside wall to the outside wall of Permittor's pipeline(s). All utilities which cross Permittor pipeline(s) must pass underneath existing pipeline(s) by a minimum of 18 inches and the crossing shall be as close to 90 degrees as possible and adequately marked on both sides of such pipeline(s). The markers shall be maintained by Permittee in the future. Any future relocation of the utility line due to Permittor's pipeline maintenance shall be done at the Permittee's expense. Any exceptions to these requirements will not be allowed without Permittor's prior written approval.

11. Telephone cables, TV cables, secondary electrical lines (240vac or less), and non-steel gas lines must be in a minimum Schedule 40 steel or PVC casing. Primary (high voltage) electrical lines must be in a minimum Schedule 40 PVC casing and have a minimum clearance of 24 inches from Permittor's pipeline(s). They shall also be covered with a red concrete slab a minimum of 4 inches thick and 24 inches wide for a distance of 10 feet on both sides of the pipeline(s).

12. If any of Permittee's lines that cross or run parallel to Permittor pipeline(s) are installed and constructed of a material requiring cathodic protection, an interference survey shall be made by Permittor and Permittor shall determine what necessary steps will be taken to prevent the damage of either line. The survey will be done at Permittor's expense. Any measures required to address interference issues as a result of the installation of the Permittee's lines will be done at Permittee's expense.

13. Grade or elevation changes may not be made without Permittor's prior written approval. Changes in grade for the purpose of water retention will not be approved.

14. Permittee will maintain a minimum of 36 inches of soil cover over Permittor's pipeline(s) across the entire width of the Encroachment where it crosses the ROW. 48 inches of cover is required for HVL lines. If insufficient cover to meet the aforementioned coverage requirement currently exists, then the line must be lowered or additional cover provided for placement over the ROW at Permittee's sole cost and expense. Cover over the lines may not exceed 6 feet without Permittor's prior written approval. The method of achieving the required depth of cover will be at the Permittor's sole discretion.

15. The Permittee must provide the Permittor with plans for all work that may affect the ROW for approval prior to construction, including an accurate plat and a profile (along the pipeline centerline) showing any grade work to be done. Upon receipt of these drawings, Permittor will prepare a cost estimate of any necessary modifications to its pipeline(s). Permittor requires that 100% of the cash equivalent of Permittor cost estimate be given to the Permittor prior to beginning modifications. Permittee will be charged actual costs for design/construction as incurred by the Permittor and an overhead charge to cover procurement, accounting, and legal services. Any part of the cost estimate not spent will be returned to the Permittee or the Permittee will be invoiced for amounts exceeding the cost estimates. Any pipeline modifications shall be done by Permittor or one of the Permittor's contractors.

16. The Permittor retains the right to adequately mark Permittor's pipelines with permanent line markers to insure public safety and the future safe operation of the lines. DOT Regulations state that any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker shall be subject to a fine, imprisonment, or both. **The Permittee is required by State law to contact the local One-Call Center at least 2 working business days prior to any excavation taking place near the pipeline(s).** The Permittor reserves the right to have an inspector or representative on the job to oversee all construction within the ROW.

17. The Permittee will allow no material or equipment to be used in the construction of the Encroachment that would hinder or impair Permittor's ability to safely maintain and operate Permittor's

pipeline(s). Temporary construction roads with additional cover and/or stabilization will be required when crossing Permittor's pipeline(s) with equipment and vehicles, and must be approved by Permittor.

18. Permittee shall not allow the Encroachment to create an erosion problem along the ROW, and should such an erosion problem arise then Permittee, at Permittee's sole cost and expense, will immediately correct the problem.

PURCHASE REQUISITION NBR: 0000165697

STATUS: ALL ITEMS ON ORDER

REQUISITION BY: JOHN CLINK

REASON: REIMBURSEMENT AGREEMENT - K-0910-130

DATE: 12/11/09

SHIP TO LOCATION: PUB WKS- ENGINEERING

SUGGESTED VENDOR: 10480 CONOCO PHILLIPS PIPE LIVE COMP

DELIVER BY DATE: 12/11/09

| LINE NBR | DESCRIPTION | QUANTITY | UOM | UNIT COST | EXTEND COST | VENDOR PART NUMBER |
|---|---|---|---|---|---|---|
| 1 | REIMBURSEMENT AGREEMENT<br>COMMODITY: CONSTRUCTION SERVICES, HE<br>SUBCOMMOD: CONSTRUCTION, UTILITY/UND | 127000.00 | EA | 1.0000 | 127000.00 | |

REQUISITION TOTAL: 127000.00

A C C O U N T  I N F O R M A T I O N

| LINE # | ACCOUNT | | PROJECT | % | AMOUNT |
|---|---|---|---|---|---|
| 1 | 05795174316701 | Capital Projects<br>Utilities | UT0003<br>Rock Creek Overpass | 100.00 | 127000.00 |
| | | | | | 127000.00 |

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

CONTINGENT ON COUNCIL APPROVAL ON 12/22/09
NEW VENDOR GETTING W-9 FORM

18. ITEM: CONSIDERATION OF A RECOMMENDATION FROM THE CITY ATTORNEY THAT THE CITY COUNCIL APPROVE A SETTLEMENT OF KELSEY LUNSFORD VS. THE CITY OF NORMAN, CLEVELAND COUNTY DISTRICT COURT CASE NO. CJ-2008-291 BH.

INFORMATION: The above-described City Attorney's recommendation is submitted for City Council's consideration. Copies of an advisory memorandum, Staff memorandum, and lawsuit are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and, if approved, authorize the City Attorney's Office to effectuate the settlement.

ACTION TAKEN: _____

office memorandum

**Date:** December 14, 2009

**To:** Honorable Mayor and Councilmembers

**From:** Rickey J. Knighton II, Assistant City Attorney
Leah K. Bunney, Assistant City Attorney
**Thru:** Jeff Harley Bryant, City Attorney

**Subject:** Agenda Item - *Lunsford v. City of Norman*, Case No. CJ-2008-291 BH

**BACKGROUND:**

*Lunsford v. City of Norman*, Case No. CJ-2008-291 BH (Lunsford I) was filed on February 11, 2008 in Cleveland County District Court. The negligence claim alleged in Lunsford I arises out of injuries alleged to have been caused when a fire engine slid down an icy hill and struck the vehicle under which Plaintiff Kelsey Lunsford was trapped. Lunsford I has proceeded through the normal litigation process and has reached a point of resolution.

**DISCUSSION:**

Kelsey Lunsford was the victim of an unfortunate accident. While driving east in the 2500 block of McGee Drive on November 30, 2006, Lunsford's car began sliding backwards. She got out and attempted to aim the car away from the stone mailbox toward which the car was headed. Unfortunately, Lunsford slipped and was run over by her car. She became stuck beneath it in such a way that her back was exposed to the hot exhaust pipe and one of her legs was twisted beneath and in front of her. She was also so far beneath the car that no one could see her. Lunsford remained beneath her car for approximately two (2) hours. Fortunately, someone noticed Lunsford and called 9-1-1.

Firefighters from the Norman Fire Department were among the first City employees to respond to Lunsford's emergency. Although the Fire Department's investigation indicates that the responding employees took appropriate precautions, one of the responding fire engines slid on the icy roadway and struck Lunsford's car while she was still beneath it. Within minutes of arriving, however, the other responding firefighters were able to extricate Lunsford. Lunsford suffered third degree burns on her lower back, a fractured L5 vertebra, and an L5-S1 disc herniation.

Since her accident, Lunsford has filed two (2) lawsuits against the City. The first, Lunsford I, alleges a negligence claim against the City under state law. Lunsford also filed an action which alleged a claim under 42 U.S.C. § 1983 for deprivation of rights, privileges, and immunities secured by the 14th Amendment to the United States Constitution. *See Lunsford v. City of Norman*, Case No. CJ-2008-2415 BH (Lunsford II).

Lunsford II was removed to federal court, *see Lunsford v. Wilson, et al.*, Case No. CIV-09-313 HE, and judgment was granted in favor of the City on July 29, 2009. The

appeal time in that case has expired and Lunsford's attorneys have indicated that Lunsford does not intend to purse the claims alleged in that case any further. Lunsford I is currently pending in state court. On November 19, 2009, Lunsford's counsel indicated a willingness to settle Lunsford I. After some negotiation, a tentative settlement agreement has been reached. This agreement is being presented to City Council at this time.

The tentative settlement agreement in Lunsford I contemplates a payment by the City of the settlement amount of $72,147.59 without an admission of liability and for the sole purpose of effectuating settlement. Seventy thousand of this amount is for the personal injuries suffered by Lunsford. The remaining $2,147.59 is for damage to Lunsford's vehicle. The parties shall bear their own costs and attorneys fees.

**RECOMMENDATION**

It is believed the proposed settlement is fair, reasonable and in the best interest of the City. It is recommended the settlement of this matter be approved by City Council and that this office be directed to reduce the settlement amount to judgment in accordance with 51 O.S. §159 and 62 O.S. §362. The settlement amount will then be placed on the property tax rolls for collection over the next three years. This procedure will minimize the impact of the settlement on the general fund. If you have questions or need additional information, please let me know.

Reviewed by: Steve Lewis, City Manager
Reviewed by: James Fullingim, Fire Chief JF

Reg/Lawsuit/CJ-2008-291B,

office memorandum

DATE: February 11, 2008

TO: Jeff Bryant, City Attorney

FROM: Brenda Hall, City Clerk

SUBJECT: Case No. CJ-2008-291 BH

I am in receipt of a Summons and Petition, Case No. CJ-2008-291 BH, for Kelsey Lunsford, through her attorney, Frank Hagedorn, in excess of $10,000.00 for medical expenses due to her claim that on November 30, 2006, in icy conditions, she was pinned under her vehicle and Fire Department personnel dispatched to assist her slid into her vehicle when attempting to park. She alleges that City employees and/or Fire Department personnel failed to exercise proper care resulting in the accident which caused and/or greatly exacerbated the devastating injuries she suffered. A claim was filed on May 17, 2007, in the amount of $164,476.97 for injuries and $2,147.59 for vehicle damages. The claim was constructively denied on August 17, 2007.

Jeff, I am forwarding the Summons to your office for whatever action may be necessary. If further action is needed from my office, please notify me.

BH:smr
attachments
cy: James Fullingim, Fire Chief

## ORIGINAL SUMMONS

**IN THE DISTRICT COURT IN AND FOR CLEVELAND COUNTY**
**STATE OF OKLAHOMA**

| | | |
|---|---|---|
| **KELSEY LUNSFORD,** | ) | |
| | ) | |
| **Plaintiff,** | ) | |
| | ) | |
| **vs-** | ) | **Case No.:** CJ-2008-291-BH |
| | ) | |
| **THE CITY OF NORMAN, a Municipality, in the County of Cleveland, State of Oklahoma,** | ) | **Frank M. Hagedorn, OBA 3693**<br>**Robert F. Fitz-Patrick, OBA 14713**<br>**Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.**<br>**320 S. Boston, Suite 400**<br>**Tulsa, OK 74103** |
| **Defendant.** | ) | |

**To the above-named Defendant(s):**

The City of Norman
c/o City Clerk Brenda Hall
Municipal Bldg.
201 W. Gray Street
Norman, OK 73070

**You have been sued by the above-named Plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this Summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the Plaintiff. Unless you answer the petition within the time stated judgment will be rendered against you with costs of the action.**

**Issued this** 11 **day of February, 2008**

Rhonda Hall
**Cleveland County Court Clerk**

**(Seal)**

**By:** _____
**Deputy Court Clerk**

FILED IN THE OFFICE
OF THE CITY CLERK
ON 2-11-09

821275.1:320401:01285
2/8/08

**This Summons was served on _____**
**(date of service)**

**_____**
**(Signature of person serving summons)**

**YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.**

821275.1:320401:01285
2/8/08

STATE OF OKLAHOMA
CLEVELAND COUNTY } S.S.
FILED In The
Office of the Court Clerk
FEB 1 1 2008
DOCKET ____ PAGE ____ RECORDED
Rhonda Hall, Court Clerk
DEPUTY

**IN THE DISTRICT COURT IN AND FOR CLEVELAND COUNTY**
**STATE OF OKLAHOMA**

| | |
|---|---|
| **KELSEY LUNSFORD,**<br><br>**Plaintiff,**<br><br>**v.**<br><br>**THE CITY OF NORMAN, a Municipality in the County of Cleveland, State of Oklahoma,**<br><br>**Defendant.** | **Case No.** CJ-2008-291-BH<br><br>~~JURY TRIAL DEMANDED~~<br>**ATTORNEY LIEN CLAIMED** |

## PETITION

Plaintiff, Kelsey Lunsford, for her claims against the City of Norman, alleges and states as follows:

### PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a resident of Cleveland County, State of Oklahoma.

2. The City of Norman (the "City") is an Oklahoma political subdivision subject to liability under the Oklahoma Governmental Tort Claims Act (51 Okla Stat. §§ 151-172, the "OGTCA").

3. The actions of the City and its employees complained of herein took place within Cleveland County.

4. Plaintiff complied with all notice requirements of and all conditions precedent to the OGTCA necessary to bring her claims described below.

5. Accordingly, this Court has jurisdiction over the subject matter and the parties to this action, and venue is properly laid in this Court.

## FACTUAL ALLEGATIONS

6. Plaintiff was involved in a single-vehicle motor vehicle accident on November 30, 2006 (the "Accident"), as a result of which she became trapped under her vehicle.

8. City Fire Department and/or other City employees were dispatched to the scene of the Accident.

9. These City employees were, at all relevant times, acting within the scope of their employment with the City. Accordingly, the actions and/or inactions of the City's employees described herein are imputable to the City, and the City is liable for those actions and/or inactions of its employees to the fullest extent allowed under the OGTCA.

10. While at the scene of the Accident, the City's employees failed to exercise proper care in several respects, which resulted in a fire truck crashing into Plaintiffs' vehicle, which caused and/or greatly exacerbated the devastating injuries she suffered.

## CAUSE OF ACTION

## NEGLIGENCE

11. The City and its employees acting within the scope of their employment owed Plaintiff a duty of care in connection with the Accident and their conduct at the scene of the Accident.

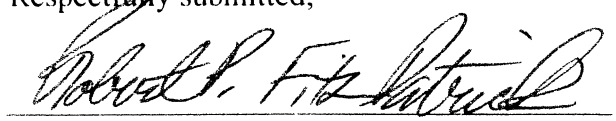
12. The City and its employees, acting within the scope of their employment, breached that duty of care owed Plaintiff by failing to maintain proper control over the fire truck, and negligently caused Plaintiff to suffer devastating injuries and damages well in excess of any applicable limitations under the OGTCA.

13. Accordingly, the City is liable to Plaintiff for its negligence and the negligence of its employees acting within the scope of their employment as described herein.

## PRAYER

WHEREFORE, Plaintiff requests that judgment be entered in her favor and against the City of Norman in excess of $10,000. Plaintiff also requests that she be granted such other and further relief to which she is entitled and which this Court deems appropriate.

Respectfully submitted,



Frank M. Hagedorn, OBA #3693
Robert P. Fitz-Patrick, OBA #14713
**Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.**
320 South Boston Avenue, Suite 400
Tulsa, OK 74103-3708
Telephone (918) 594-0400
Facsimile (918) 594-0505

**ATTORNEYS FOR PLAINTIFF, KELSEY LUNSFORD**

821263.1:320401:01285

19. ITEM: RESOLUTION NO. R-0910-71: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF MUNICIPAL AND MUNICIPAL RUNOFF ELECTIONS.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. A copy of the resolution is included in the Agenda Book.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-71.

ACTION TAKEN: _____

# Resolution

R-0910-71

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF MUNICIPAL AND MUNICIPAL RUNOFF ELECTIONS.

§ 1. WHEREAS, Title 26 of the Oklahoma Statutes, §13-102, requires Notice of Election be filed with the Secretary of the Cleveland County Election Board by Resolution of the City Council no fewer than 15 days before the filing period begins; and

§ 2. WHEREAS, Article II, Section 5, of the Charter of the City of Norman requires that City Council adopt a resolution in December to designate a date in March for a non-partisan Municipal Election for the election of officers to be held on Tuesday, March 2, 2010; and

§ 3. WHEREAS, a filing period shall be opened by the Cleveland County Election Board beginning at 8:00 a.m. on Monday, January 11, 2010, and ending at 5:00 p.m. on Wednesday, January 13, 2010; and

§ 4. WHEREAS, Article II, Section 6, of the Charter of the City of Norman requires that City Council adopt a resolution in December to designate a date in May for a non-partisan Municipal Runoff Election for the election of officers be held on Tuesday, May 11, 2010, subject to the provisions for the ipso facto election of an officer in the Municipal Election found in Article II, Section 17; and

§ 5. WHEREAS, said elections aforementioned in Sections 2 and 4 shall be held to elect Councilmembers filling Ward position numbers two (2), four (4), six (6), and eight (8) for terms of two (2) years and a Mayor for a term of three (3) years; and

§ 6. WHEREAS, each candidate must be a registered voter of the City of Norman for one year prior to the date of the Municipal Runoff election and in the case of Ward City Councilmembers, a candidate must reside in the ward from which they seek election on the date of filing.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 7. That notice be given of the Municipal and Municipal Runoff Elections by transmittal of this Resolution to the Secretary of the Cleveland County Election Board.

PASSED AND ADOPTED this 22nd day of December, 2009.

ATTEST: _____ Mayor

_____
City Clerk

THE CITY OF NORMAN OKLAHOMA
RECREATION EDUCATION INDUSTRY HEALTH RESEARCH

20. ITEM: RESOLUTION NO. R-0910-78: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, APPROPRIATING $124,198.64 FROM THE CAPITAL FUND BALANCE TO PAY A CLAIM FROM THE OKLAHOMA DEPARTMENT OF TRANSPORTATION (ODOT) IN CONNECTION WITH THE ROBINSON STREET WIDENING PROJECT BETWEEN BROOKHAVEN BOULEVARD AND 48TH AVENUE N.W.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. Copies of an advisory memorandum; resolution; location map; invoice; summary of costs; Contract No. K-0304-165; and purchase requisition are included in the Agenda Book.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-78; and, if adopted, direct payment in the amount of $202,787.73 to ODOT.

ACTION TAKEN: _____

office memorandum

**Date:** December 10, 2009

**To:** Honorable Mayor and City Councilmembers

**From:** John Clink, Capital Projects Engineer

**Subject:** Agenda Item – 1. Approval of transfer of funds from the Capital Fund Balance to the Robinson Street Widening: Brookhaven to 48th Avenue NW Construction Account

2. Approval of payment of the final project invoice to the Oklahoma Department of Transportation for the West Robinson Street Widening Project

**BACKGROUND**:

On May 11, 2004, City Council adopted Resolution R-0304-108 and approved Contract K-0304-165 for the construction of the West Robinson Street Widening Project. Construction began on this project in November 2004 and it was completed in March 2006.

The project provided for the widening of Robinson Street from two lanes to four lanes between 48th Avenue NW and Brookhaven Boulevard. A grant of federal transportation funds provided by the Oklahoma Department of Transportation (ODOT) and the Association of Central Oklahoma Governments (ACOG) paid for 80 percent of the construction costs on the project. The City's share of the project paid for land acquisition, utility relocation, design services and 20 percent of the construction costs.

**DISCUSSION:**

ODOT issued the attached final invoice for this project to the City on December 9, 2009. It is common for the final audit of ODOT projects to occur 3-7 years after completion of the construction. The invoice includes the reasons for the increased construction cost; project overruns and utilities. See the table "Summary of Cost" for a cost breakdown. The major project overruns are road stabilization materials, unclassified excavation and retaining wall. The retaining wall accounts for almost half of the overrun cost. There are two major utility items. First, the contractor hit the 24-inch waterline coming out of the water tower near West Robinson Street. The roadway contractor had the waterline repaired. Second, the contractor, Haskell Lemon Construction Company, filed a $176,253.10 delay claim against ODOT on May 24, 2007. The claim included the cost for labor, overhead, equipment and profit for 43 days due to delays caused by utility conflicts. ODOT has evaluated the claim and settled with the contractor for $165,000. The total amount of the invoice is $202,787.73. The City Manager has requested that legal staff evaluate possible third party liability to offset the City's expense on this claim.

Table: Summary of Cost

| | Total | ODOT | City |
|---|---|---|---|
| Project Overruns | $136,312.90 | $109,050.32 | $27,262.58 |
| Utility Cost | $175,525.15 | ---------- | $175,525.15 |
| Total | $311,838.05 | $109,050.32 | $202,787.73 |

On federally funded transportation projects like this one, the City is required to sign an agreement with ODOT committing to the utility relocation responsibilities on the project. The City, in turn, negotiates with all of the franchise utility companies to relocate their systems to avoid conflict with the upcoming roadway project. While this process took place on West Robinson Street, several utilities were still found to be in conflict with the work of Haskell Lemon Construction Company. Due to the City's original commitment to ODOT, the City is required to pay the utility delay claim.

Other utility conflicts have occurred on recent capital projects, particularly the 36th Avenue West and Main Street Project. City staff and ODOT are currently in discussions on that matter. In response to these utility problems, the Public Works Department has implemented new policies and procedures in the latter part of 2009 to avoid such claims in the future. A full-time Utility Coordinator was added to the staff in August, 2009. The new procedures are currently being used on the Robinson Street Underpass Project.

The Robinson Street Widening: Brookhaven to 48th Avenue NW Construction (Account No. 050-9166-431.61-01), Project No. TR0020 contains $78,589.09. An additional $124,198.64 from the Capital Fund Balance is required to pay the invoice.

**RECOMMENDATION NO. 1:**

Staff recommends an appropriation of $124,198.64 from the Capital Fund Balance, (Account No. 050-0000-253.20-00) to the Robinson Street Widening: Brookhaven to 48th Avenue NW Construction (Account No. 050-9166-431.61-01), Project No. TR0020.

**RECOMMENDATION NO. 2:**

Staff recommends payment to ODOT in the amount of $202,787.73 for the balance of the City's share on the Robinson Street Widening: Brookhaven to 48th Avenue NW project.

Reviewed by: Shawn O'Leary, Director of Public Works
Bob Hanger, City Engineer BH
Linda Price, Revitalization Manager LRP
Susan Connors, Director of Planning & Community Development SJC
Clint Mercer, Chief Accountant
Anthony Francisco, Director of Finance SK for AF
Jeff Bryant, City Attorney BN/DJB
Steve Lewis City Manager

# Resolution

R-0910-78

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, APPROPRIATING $124,198.64 FROM THE CAPITAL FUND BALANCE TO PAY A CLAIM FROM THE OKLAHOMA DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THE ROBINSON STREET WIDENING PROJECT BETWEEN BROOKHAVEN BOULEVARD AND 48TH AVENUE N.W.

§ 1. WHEREAS, City Council on May 11, 2004, approved Contract No. K-0304-165 with the Oklahoma Department of Transportation (ODOT) for the Robinson Street Widening Project between Brookhaven Boulevard and 48th Avenue N.W.; and

§ 2. WHEREAS, the City's share of the project is 100% for right-of-way and utilities and 20% of the construction costs; and

§ 3. WHEREAS, due to utility delays with this project, the contractor hired by ODOT filed a delay claim against ODOT which included labor, overhead, equipment, and profit for 43 days and ODOT has evaluated the claim and settled with the contractor for $165,000; and

§ 4. WHEREAS, it is necessary to appropriate $124,198.64 from the Capital Fund Balance to pay the claim submitted by ODOT.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 5. That the following appropriation be made for the reason as stated above:

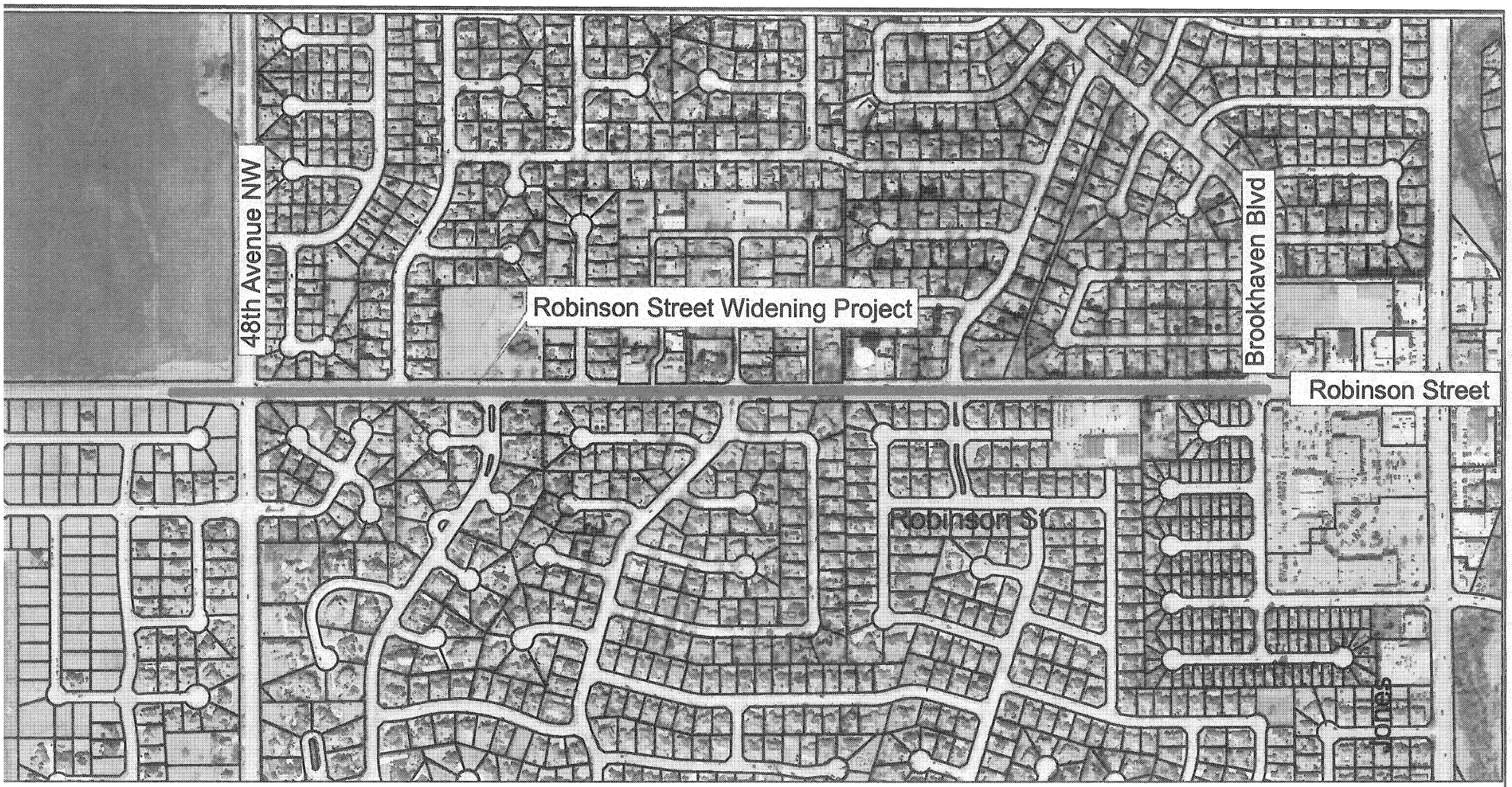
| Account Name | Losing Account | Gaining Account | Amount |
|---|---|---|---|
| Project No. TR0020 Robinson Widening: Brookhaven - 48th, Construction | 050-0000-253.20-00 | 050-9166-431.61-01 | $124,198.64 |

PASSED AND ADOPTED this 22nd day of December, 2009.

_____
Mayor

ATTEST:

_____
City Clerk




**Robinson Street Widening: Brookhaven to 48th Avenue NW**

0 200 400 800 Feet

N W E S

# *INVOICE*

**Oklahoma Department of Transportation**
**Comptroller Division**
**200 N.E. 21st Street**
**Oklahoma City, OK 73105-3204**
**Phone (405) 521-2591 Fax (405) 522-0137**

| | |
|---|---|
| Invoice # | 18206(04)-1 |
| Date | September 22, 2009 |
| | Comptroller Division |

**To:**
City of Norman
Mr. Steve Lewis, City Manager
P.O. Box 370
Norman, OK 73069

**For:**
Project No: STP-114B(43)AG
Job Piece No: 18206(04)

## REVISED

Description:Grading, Drainage, and Surfacing at Robinson from Brookhaven to 48th Ave

| | | | |
|---|---|---|---|
| Project Cost | $2,241,456.05 | | |
| City Share: Participating-20% | 448,291.21 | | |
| Non-Participating-100% | 212,182.96 | | |
| Due to State | 660,474.17 | | |
| Deposits on Hand | 457,686.44 | $ | 202,787.73 |
| | **Total Due to State** | **$** | **202,787.73** |

Make all checks payable to **Oklahoma Department of Transportation**
Payment is due **within 30 days**

Summary of costs for JP 18206(04) - STP-114B(043)AG
to accompany invoice to City of Norman

| | | | City Share |
|---|---|---|---|
| Estimated Participating Costs | $ 2,105,143.15 | 20% | $ 421,028.63 |
| Estimated Non-Part. Costs | 36,657.81 | 100% | 36,657.81 |
| Amount on Deposit from City of Norman | | | $ 457,686.44 |
| Actual Participating Costs | 2,241,456.05 | 20% | 448,291.21 |
| Actual Non-Part. Costs | 212,182.96 | 100% | 212,182.96 |
| Total Obligation of the City of Norman | | | 660,474.17 |
| Less: Amount on Deposit from City of Norman(from above) | | | (457,686.44) |
| Net Due from City | | | 202,787.73 |
| Difference between Estimated & Actual Participating Costs(A) | $ 136,312.90 | 20% | 27,262.58 |
| Difference between Estimated & Acutal Non-Part. Costs(B) | 175,525.15 | 100% | 175,525.15 |
| | | | 202,787.73 |

**(A)** Additional participating costs consist of overruns handled by change in plans & construction inspection costs.

**(B)** Additional non-part. costs primarily due to contractor settlement and change in plan for relocation of conflicting 24" water line.

# PROJECT AGREEMENT

This Agreement, made the day and year last written below, by and between the City of Norman, Oklahoma, hereinafter referred to as the CITY, and the Department of Transportation of the State of Oklahoma, hereinafter referred to as the DEPARTMENT, for the following intents and purposes and subject to the following terms and conditions, to-wit:

WITNESSETH:

That the CITY requests that certain street improvements be approved for processing by the Oklahoma Transportation Commission as previously programmed by the CITY and designated as Federal-aid Project Number STP-114B(043)AG, State Job Number 18206(04), consisting of the actual improvements as follows:

Grading, Drainage, and Surfacing

Robinson Street from 48th Ave. NW to Brookhaven

WHEREAS, all construction is to be in conformance with the plans prepared by the CITY, which are by reference made part of this Agreement. Said plans are to be as a minimum in accordance with the Oklahoma Department of Transportation 1999 Standard Specifications for Highway Construction.

WHEREAS, the parties hereto have entered into a Right-of-Way, Public Utility and Encroachment Agreement," which provided inter alia that the CITY would be responsible for furnishing all right-of-way for said project, free and clear of all obstructions, encroachments, and that the CITY shall at its sole expense maintain the project after construction; and

WHEREAS, nothing herein contained shall be construed in any way to modify, alter, rescind, or abridge any portion of the aforementioned "Right-of-Way, Public Utility and Encroachment Agreement; and

NOW THEREFORE, the parties hereto mutually agree as follows:

1. The CITY agrees to the location of the subject project and acknowledge receipt of and adopts the plans for said project as the official plans of the CITY for the streets, boulevards, arterial highways and/or other improvements contained therein; and further the CITY affirmatively states that it has fully and completely examined these plans and does hereby warrant to the DEPARTMENT the CITY's complete satisfaction with these plans, and the fitness of the plans to construct the aforesaid project.

2. The CITY certifies that the project design plans comply , and the project when completed will comply, with the applicable provisions of the Department of Justice implementation plan of Title III of the Americans with Disabilities Act, (42 U.S.C. 12101-12213) as outlined in 28 CFR Part 35.

3. The parties hereto agree to comply with all applicable laws and regulations meeting Environmental Protection Agency (EPA) requirements for pollution prevention including discharges from storm water runoff on this project. It is agreed that the project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work and the storm water pollution prevention plan sheet contained in the plans and the appropriate USGS topographic map constitute the storm water management plan for the project described previously in this document. The DEPARTMENT agrees to file jointly with the Contractor the Notice of Intent (NOI) for a general construction National Pollutant Discharge Elimination System (NPDES) permit with EPA which authorizes the storm water discharges associated with the industrial activity from the construction site identified in this document. Further, the CITY agrees as stipulated in Federal Register Vol. 57 No. 175 pg 41191, to co-permit with the DEPARTMENT when or if required to have daily operational control of those activities at the site necessary to ensure compliance with plan requirements and permit conditions.

4. The CITY agrees to prohibit parking on that portion of the project within the corporate limits of the CITY, except as may be indicated in the plans or hereafter approved by Agreement with the DEPARTMENT. The CITY further agrees not to install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and Manual on Uniform Traffic Control Devices (MUTCD).

5. The CITY further agrees and warrants to the DEPARTMENT that subsequent to the construction of said project, the CITY will:

   A. Erect, maintain and operate traffic control devices, including signals, signs and pavement markings only in accordance with 47 0.S. 1991 Section 15-104, 15-105 and 15-106, and subject to the Agreement of the DEPARTMENT:

      (1) In the event that any traffic signal installed hereunder is no longer needed for the purposes designated herein, then the traffic signal installed hereunder

shall not be removed by the CITY to any point other than that which is approved by the DEPARTMENT prior to such removal.

(2) In the event there is no mutually agreed location for the reinstallation, the CITY will assume complete ownership of the equipment following removal, if the installation is ten (10) years old or older. If the installation is less than ten (10) years old, and:

(a) In the event the CITY desires total ownership of the equipment, the CITY shall reimburse the DEPARTMENT for the original Federal funding percentage share for the original equipment cost only, amortized for a ten (10) year service life, interest ignored, and assuming straight line depreciation.

(b) In the event the CITY does not desire total ownership of the equipment, the CITY shall sell the equipment at public auction to the highest bidder. The CITY shall reimburse the DEPARTMENT the original Federal funding percentage share of the proceeds of such sale.

B. Subject to Agreement with the DEPARTMENT, regulate and control traffic on said project, including but not limited to, the speed of vehicles, parking, stopping and turns and to make no changes in the provisions thereof without the approval of the DEPARTMENT. It shall be the responsibility of the CITY to notify the DEPARTMENT of any changes necessary to insure safety to the traveling public.

C. Maintain all drainage systems and facilities constructed, installed, modified or repaired in conjunction with this project or as may be otherwise necessary to insure proper drainage for road surfaces constructed under the terms of this Agreement.

D. Maintain all curbs and driveways abutting road surfaces constructed under the terms of this Agreement and all sidewalks adjacent thereto.

E. Maintain all right-of-way areas adjacent to road surfaces, including erosion control and periodic mowing of vegetation in a manner consistent with applicable codes, ordinances and regulations.

F. Make ample provision annually for proper maintenance of items heretofore delineated as the responsibility of the CITY, including the provision of competent personnel and adequate equipment, and specifically, to provide all required special

maintenance of the project during the critical period immediately following construction.

G. Keep all permanent right-of-way shown on said plans free from any encroachment and take immediate action to effect the removal of any encroachments upon notification by the DEPARTMENT.

6. The CITY further agrees and warrants to the DEPARTMENT concerning sign and highway facility lighting:

A. The CITY will upon notice from the DEPARTMENT Engineer provide at its own expense all required electrical energy necessary for all preliminary and operational tests of the highway lighting facilities.

B. Upon completion of the construction of said project, and by the DEPARTMENT, the CITY will be responsible for the maintenance and cost of operation of these highway lighting facilities, including all appurtenances thereto and including the sign lighting facilities.

C. It is specifically understood and agreed that the highway lighting and sign lighting facilities specified herein shall be continuously operated during the hours of darkness between sunset and sunrise and shall not be altered, removed or be allowed to cease operation without the mutual written consent of the DEPARTMENT and the CITY .

D. The CITY agrees to provide, on a periodic schedule, an inspection, cleaning and a relamping maintenance program to assure the maximum efficiency of the highway lighting facilities.

E. In the event that highway lighting facilities installed hereunder are no longer needed for the purposes designated herein, then the highway lighting facilities installed hereunder shall not be removed by the CITY to any point other than which is approved by the DEPARTMENT prior to such removal.

F. In the event there is no mutually agreed location for reinstallation, the CITY will assume complete ownership of the equipment following removal, if the installation is twenty (20) years old or older. If the installation is less than twenty (20) years old, and:

(1) In the event the CITY desires total ownership of the equipment, the CITY shall reimburse the DEPARTMENT the original Federal funding percentage

share of the original equipment costs only, amortized for a twenty (20) year service life, interest ignored, and assuming straight line depreciation.

(2) In the event the CITY does not desire total ownership of the equipment, the CITY shall sell the equipment at public auction to the highest bidder. The CITY shall reimburse the DEPARTMENT the original Federal funding percentage share of the proceeds of such sale.

7. The CITY agrees, affirms and warrants to the DEPARTMENT that the CITY will be responsible, during the period of construction, for any repairs or maintenance to the approved detour route or any other street which may be required as a result of additional traffic.

8. The CITY agrees to comply with Title VI of the Civil Rights Act of 1964, 78 O.S. § 252.42, U.S.C. §2000d-et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, of Secretary of Transportation, Part 21 - "Nondiscrimination in federally assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act 1964."

9. The CITY agrees that it will, by resolution, duly authorize the execution of this Agreement by the proper officials, and attach copies of such resolution to this Agreement.

10. The DEPARTMENT and the CITY mutually recognize that each party is a governmental entity subject to the provisions of the Governmental Tort Claims Act (51 O.S. 1991 § 151 et seq.). The DEPARTMENT and the CITY hereby mutually agree that each is and may be held severally liable for any and all claims, demands, and suits in law or equity, of any nature whatsoever, paying for damages or otherwise, arising from any negligent act or omission of any of their respective employees, agents or contractors which may occur during the prosecution or performance of this Agreement to the extent provided in the Governmental Tort Claims Act. Each party agrees to severally bear all costs of investigation and defense of claims arising under to Governmental Tort Claims Act and any judgements which may be rendered in such cause to the limits provided by law. Nothing in this section shall be interpreted or construed to waive any legal defense which may be available to a party or any exemption, limitation or exception which may be provided by the Governmental Tort Claims Act.

11. Based on an estimated total construction cost of $1,992,000.00, the DEPARTMENT agrees that Federal-aid Surface Transportation Program funds shall be requested to provide 80% of the federal participating project costs (estimated at $1,574,000.00).

The City agrees that local funds shall be used to provide 20% of the federal participating project costs (estimated at $393,500.00) and 100% of the nonparticipating project costs (estimated at $24,500.00). The CITY's estimated total obligation is $418,000.00 (Four Hundred Eighteen Thousand Dollars) which shall be deposited with the DEPARTMENT prior to advertising for bids.

12. It is understood by the CITY that no State funds are to be utilized in any phase or aspect of this project. Only CITY and Federal funds are to be utilized.

13. Upon approval of this Agreement and the plans, specifications, and estimates by the DEPARTMENT and Federal Highway Administration, if applicable, the DEPARTMENT shall agree to advertise and let the contract for this project in the usual and customary legal manner. It is agreed that the project herein described is proposed to be financed as previously set forth, and that this Agreement, all plans, specifications, estimates of costs, acceptance of work, payments and procedures in general hereunder are subject in all things at all times to all Federal laws, regulations, orders and approvals as may be applicable hereto.

14. It is understood by the CITY and the DEPARTMENT that the funding participation stipulated herein may be altered due to construction supervision costs and/or nonparticipating items incurred during construction. Upon final acceptance of this project, the amount of Federal funds and the amount previously deposited by the CITY will be deducted from the total cost and a refund will be made by the DEPARTMENT to the CITY or additional funding will be requested from the CITY.

15. The DEPARTMENT agrees to construct said project in strict accordance with the plans furnished and approved by the CITY, provided that upon consultation with and Agreement by the CITY, the DEPARTMENT shall have the right to make such changes in the plans and specifications as are necessary for the proper construction of the project. The DEPARTMENT shall provide competent supervision at all times that the work is in progress. The CITY shall have inspectors on the project site as the CITY determines necessary to insure construction of the project to the satisfaction of the CITY and shall have representatives available for consultation with the DEPARTMENT representatives to cooperate fully to the end of obtaining work strictly in accordance with the CITY's approved plans and specifications.

16. The CITY agrees that the CITY will intervene as a party defendant in all actions where a contractor may allege delay due to failure of the CITY to accomplish timely utility

relocations, site conditions which are not as represented on the plans, or plan errors which impact on project constructability, whether in the District Court or in an alternative dispute resolution forum, will defend all such actions and will pay all damages relating to delay as may be assessed by such court or alternative dispute resolution forum against the CITY for its adjudged failure.

17. Failure by the CITY to fulfill its responsibilities under this Agreement will disqualify the CITY from future participation in any Federal-aid project. Federal funds are to be withheld until such time as the deficiencies in regulations have been corrected or the improvements to be constructed under this Agreement are brought to a satisfactory condition of maintenance.

18. It is further specifically agreed and understood between the CITY and the DEPARTMENT that the project will be built in accordance with the plans and specifications, and upon final acceptance by the CITY and the DEPARTMENT of this project, the CITY does hereby accept full, complete and total responsibility for the maintenance of this project as provided in this Agreement.. The CITY does not waive any rights against any contractor(s) with respect to defects, hidden or otherwise, in materials or workmanship. The CITY does not, pursuant to this provision or any other provision in this Agreement, waive its sovereign immunity or any exemption from, exception to or limitation of liability as provided in the Governmental Tort Claims Act.

19. The Secretary of the DEPARTMENT may terminate the contract in whole, or from time to time in part, whenever:

    A. The requisite federal funding becomes unavailable through failure of appropriation or otherwise.

    B. The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.

    C. The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.

    D. The Secretary determines that such termination is in the best interest of the State.

IN WITNESS WHEREOF, the Director of the Department of Transportation, pursuant to authority vested in him by the State Transportation Commission, has hereunto subscribed his name as Director of the Department of Transportation and the CITY has executed same pursuant to authority prescribed by law for the Department.

The CITY on this 11th day of May, 2004, and the DEPARTMENT on the 13th day of May, 2004.

APPROVED AS TO FORM
AND LEGALITY

City Attorney

CITY OF NORMAN

Mayor

ATTEST:

City Clerk (Seal)

APPROVED AS TO FORM
AND LEGALITY

General Counsel

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION

Deputy Director

13-10

PURCHASE REQUISITION NBR: 0000165792

REQUISITION BY: JOHN CLINK

STATUS: DEPARTMENT APPROVAL
REASON: ODOT INVOICE

DATE: 12/15/09

SHIP TO LOCATION: PUB WKS- ENGINEERING

SUGGESTED VENDOR: 1514 OKLAHOMA DEPT OF TRANSPORTATIO

DELIVER BY DATE: 12/15/09

| LINE NBR | DESCRIPTION | QUANTITY | UOM | UNIT COST | EXTEND COST | VENDOR PART NUMBER |
|---|---|---|---|---|---|---|
| 1 | ODOT INVOICE<br>COMMODITY: CONSTRUCTION SERVICES, HE<br>SUBCOMMOD: CONSTRUCTION, STREET (MAJ | 202787.73 | EA | 1.0000 | 202787.73 | |

REQUISITION TOTAL: 202787.73

A C C O U N T  I N F O R M A T I O N

| LINE # | ACCOUNT | | PROJECT | % | AMOUNT |
|---|---|---|---|---|---|
| 1 | 05091664316101 | Capital Projects Construction | TR0020<br>Robinsn Wide:Brookhvn-48t | 100.00 | 202787.73 |
| | | | | | 202787.73 |

REQUISITION IS IN THE CURRENT FISCAL YEAR.

REQUISITION COMMENTS:

CONTINGENT ON COUNCIL APPROVAL ON 12/22/09.
REQUISITION REQUIRES A LINE TRANSFER OF $33,628.62
FROM 050-9166-431.60-01, $5,158 FROM 431.62-01 AND
$39,802.47 FROM 431.67-01 TO 050-9166-431.61-01.

21. ITEM: CONSIDERATION OF AMENDED NORMAN RURAL CERTIFICATE OF SURVEY NO. COS-0910-1 FOR WESTRIDGE FARMS ADDITION.

LOCATION: Located at the northeast corner of Tecumseh Road and 60th Avenue N.W.

INFORMATION:

1. Owner. Sassan Moghadam.

2. Developer. Sassan Moghadam.

3. Engineer. SMC Consulting Engineers, P.C.

HISTORY:

1. Refer to the Planning Commission Staff Report, October 8, 2009.

2. November 24, 2009. City Council, by a vote of 4-4, denied Norman Rural Certificate of Survey No COS-0910-1 for Westridge Farms Addition.

3. October 8, 2009. Planning Commission, by a vote of 8-0, recommended to City Council that Certificate of Survey No. COS-0910-1 for Westridge Farms Addition be approved.

PUBLIC DEDICATIONS:

1. Easements. Required easements have been provided with the Tecumseh Road Paving Project.

SUPPLEMENTAL MATERIAL: Copies of an advisory memorandum; letter from attorney representing the applicant; restrictive covenants; water service line agreement included in previous item on November 24, 2009; location maps; certificate of survey; Staff Report recommending approval; and pertinent excerpts from Planning Commission and City Council minutes are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject amended Norman Rural Certificate of Survey No. COS-0910-1; and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

office memorandum

**TO:** The Honorable Mayor and Councilmembers

**DATE:** December 15, 2009

**THROUGH:** Jeff H. Bryant, Assistant City Attorney
**FROM:** R. Blaine Nice, Assistant City Attorney

**SUBJECT:** Agenda Item – Norman Rural Certificate of Survey No. COS-0910-1 Westridge Farms Addition

**BACKGROUND:**

On November 24, 2009, Norman Rural Certificate of Survey No. COS-0910-1 was considered by the City Council. The property is located at the northeast corner of west Tecumseh Road and 60th Avenue, N.W., and is currently located in the A-2, Rural Agricultural Zoning District. The Planning Commission, at its meeting on October 8, 2009, recommended to City Council that the COS be approved. The applicants proposed the COS in order to create five lots of 20 acres or greater for single residential family dwellings.

A motion to approve the certificate was made, and the vote was 4 votes to approve and 4 votes to reject the COS. Consequently, the item failed to be approved. The developer has now requested that the COS be forwarded to Council for consideration based on a modified application that includes Restrictive Covenants for Westridge Farms Addition in an attempt to address issues raised at the November 24, 2009 Council Meeting.

**DISCUSSION:**

As previously indicated to Council, each lot exceeds the 10 acres minimum requirement of the City's Comprehensive Land Use Plan, Norman 2025. Tracts A-D consist of 20 acres and Tract E consists of 80 acres. Each tract will utilize private, individual, sanitary sewer systems located outside the flood plain.

The accessibility to potable water was problematic for City Council. Water wells drilled in this area in the past have not proven to be reliable. Therefore, it was the desire of the owner/developer to connect to the City water distribution system with individual private water service lines to be located outside the public right-of-way. In 2002, the City of Norman extended a public water main along Tecumseh Road from Hillview Drive to ½ mile east of 48th Avenue, N.W., consisting of approximately 3,806 feet to provide domestic water service to existing houses. This was due to the fact that private water wells servicing these homes had become unsafe to drink. The City obtained a grant to extend the public water system. Further, the property owners served by the extended public water main formed a special assessment benefit district to pay their share of the project costs.

Due to the size and the location of the City's public water system in this area, the proposed water solution for the Westridge Farms Addition COS required an extension of up to 2,700 additional feet of private water line from the end of the existing City water main to provide five private water services. This is not a solution that would normally be recommended by City Staff or recommended by ODEQ. This is due to the fact that a private water service line that extends as much as 2,700 feet may result in the following:

1. Inadequate water pressure at each home due to the length of service line and the friction loss that may occur at each residence.

2. Insufficient water quality due to the length of the service line and the age of possible stagnant water received at the residence.

Because of these issues, City Staff met with the owner/developer and his engineer in order to explore possible solutions to reduce the probability of having problems with satisfactory water pressure and/or water quality. Options included increasing the diameter of the water service line to reduce friction loss and/or installation of a private booster pump to increase pressure. Further, to reduce the possibility of stagnant water and help keep the water fresh, periodic flushing of the service line either manually or with an automatic flushing valve, could be used. Finally, the option of providing an appropriate disinfection system for any residential structure could be erected on a lot within the subdivision to safeguard the water quality provided to the residence was discussed.

The developer selected the disinfection option and included in the original Agenda Item a private water service line agreement that would become a part of the Rural Certificate of Survey allowing the subdivision of land. However, there were concerns expressed with extending the private service line this distance into a rural area where occupants, present or future, may not be equipped to deal with future water quality issues. Concern was also expressed that future Councils may be called upon to extend a public water line into the area should the disinfection systems fail.

The applicant is now requesting that this application be considered with the same water quality solution. However, the application does include Restrictive Covenants for Westridge Farms Addition which requires that the water service line be located outside the City right-of-way and that the installation, maintenance, or repair of each private line will be the sole expense of the lot owners. Further, the owner agrees to install, maintain and repair an appropriate disinfection system to safeguard the water quality provided to the residences. This disinfection system will be the requirement of any residential building permit issued by the City.

This agreement will extend to and be binding on the present owners, their successors and assigns of the property. This covenant is very similar to the private water service line

agreement which City Staff had proposed and that the owner/developer had previously approved, except including the terms of the agreement in a Restrictive Covenant to be filed in County Real Estate records is a more formalized means of insuring present and future occupants of potential residences on the land will be made aware of the obligation to keep and maintain an appropriate water disinfection system.

If the water quality issue is not addressed at this time, the applicant could submit a COS request that excludes this issue. Then, on its face, the COS would arguably comply with applicable laws and regulations of the City of Norman. The potable water issue would then be postponed for determination at the building permit stage of development if a request to tie into a public water line were made at that time. Given the difficulty with suitable wells in this area, Staff felt it was better to seek Council input on this issue with the current application. Further, the proposed subdivision is consistent with the 2025 Plan with respect to the size of lots to be developed in this area. In fact, minimum ten-acre lots are contemplated under the plan and in this case, there are four 20-acre lots and one 80-acre lot.

The owner/developer now requests that the COS be forwarded for Council consideration with a new restrictive covenant executed by the developer and any current property owner. These covenants will be recorded as part of the COS and will run with the land.

**RECOMMENDATION:**

Based upon the above information, the Staff submits for Council's consideration Certificate of Survey COS-0910-1 for Westwood Farms Addition as amended on the conditions outlined above.

Reviewed by: Steve Lewis, City Manager
Shawn O'Leary, Public Works Director
Bob Hanger, City Engineer BH
Ken Komiske, Utilities Director

# HEIPLE LAW OFFICES, INC.

**218 East Eufaula**
**P. O. Box 847**
**Norman, OK 73070**
**(405) 321-0090**

**FAX (405) 321-9763**
**heiplelaw@cox.net**


TO: City Attorney Jeff Bryant **HAND-DELIVERED**

RE: Restrictive covenants for Westridge Farms

Date: Dec. 15, 2009

Enclosed is the original of the 3-page Restrictive Covenants which have been signed and notarized by the owner of the property for which the Westridge Farms Addition Plat is proposed.

These covenants reflect a recordable recitation of the commitments in the private agreement between the City and the Owner, in addition to points of concern raised by Council member when the Plat failed on a 4-4 vote. I had previously sent a copy of the Covenants to the four Council members who voted against the Plat. Two of them have expressed satisfaction and I have not heard from the other two.

The enclosed original is delivered to you **IN TRUST**, to be held pending the Council revote, which is anticipated on Dec. 22, 2009. If the Plat is approved, I will give you my check payable to the County Clerk to cover cost of recording, so that you may file the original at the Courthouse. Let me know if you have questions or problems.

We are appreciative of the time and courtesy extended by all City officials in an effort to get this back on the agenda.

*Harold Heiple*

cc: City Clerk, w/encl.
Public Works, w/encl.
Client, w/encl

## RESTRICTIVE COVENANTS FOR WESTRIDGE FARMS ADDITION

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned, Sassan K. Moghadam and Matthew L. Smith, (**"OWNERS"**), each a single man, collectively are the owners and in possession of the following described real property situate in Cleveland County, Oklahoma, to-wit:

> Tracts A, B, C, D and E comprising all of WESTRIDGE FARMS ADDITION to the City of Norman, Oklahoma, according to the Norman Rural Certificate of Survey Plat to be filed in the office of the County Clerk of Cleveland County, Oklahoma, which is more particularly described as follows: The Southwest Quarter (SW 1/4) of Section 9-T9N-R3W, Cleveland County, Oklahoma (hereinafter referred to as "**the Subject Property**"); and

WHEREAS, potable water is available to The Subject Property by and under that certain "Private Water Service Line Agreement" executed by and between Owner and the City of Norman (**"the CITY"**) concurrently with the approval by the City of the above-described Rural Certificate of Survey Plat of WESTRIDGE FARMS; and

WHEREAS, it is appropriate that pertinent terms and conditions of the above-described Agreement between Owner and the City should be made a matter of public notice to any and all present and future owners, tenants, occupants and all other entities having or acquiring any sort of interest in the Subject Property.

NOW, THEREFORE, in consideration of the approval by the City and the filing with the Cleveland County Clerk of said Plat, Owners hereby declare, establish and impose the following restrictions on the Subject Property, all to run with the land in perpetuity:

1. Owners, and every grantee and/or assignee (*both immediate and remote*) of Owners of any interest in and to any part of the Subject Property, acknowledge and agree to the following:

> A. Potable water available from the City to the Subject Property will come from a City water line located outside of the Subject Property. Private service lines will be installed from that source, to various lots in the Subject Property. The installation, maintenance, repair and removal of each such private line, together with permit fees, easements, insurance and recording fees, will be at the sole expense of the recipient Lot owner.

B. By acquiring an ownership interest, each owner of any part of the Subject Property agrees that any residential structure erected and maintained on a Lot of the Subject Property is required to install, maintain and repair an appropriate disinfection system to safeguard the water quality provided to the residents. Such disinfection system will be a requirement of any residential building permit issued by the City.

C. Each owner of any part of the Subject Property must comply with all relevant government rules, laws and requirements related to construction, installation and repair to the service line, and must obtain all required licenses and permits prior to start of actual construction.

D. No taps to any service line will be permitted which would provide water to another lot in the Subject Property.

E. Each owner of any Lot with such a service line must install, maintain and repair, at the owner's sole expense, an air-gap or appropriate back-flow prevention device to prevent potential sources of contamination from entering the public water system.

F. By acquiring and recording title to any part of the Subject Property, such grantee, along with the current Owner, does release, indemnify and hold harmless the City, its successors and assigns, from any claims, demands, liability or damages and any expenses incurred by reason of the same, including reasonable attorney's fees incurred by the City, whether or not a suit is involved, in any way arising from or related to low water pressure or the growth of bacteria and other substances in the potentially stagnant water in that Owner's service line.

G. Each owner of any part of the Subject Property acknowledges that the current City water line in the vicinity, which will be the source of potable water to the Subject Property, is intentionally of a small size because of the very low density residential zoning imposed throughout this area of the City. Such a small line will likely result in lower water pressure to residences in the Subject Property than the pressure enjoyed at residences elsewhere in the City. Each Owner of any part of the Subject Property acknowledges that there is no likelihood that the City will, at some time in the future, increase the size and/or pressure of the line available to serve the Subject Property.

2. This Agreement shall extend to, and be binding upon, the successors and assigns of the undersigned, both immediate and remote.

3. These restrictive covenants are enacted and placed upon the Subject Property for the benefit and protection of the City of Norman, a municipal corporation.

IN WITNESS WHEREOF, we execute this document as of December 15th, 2009.

Sassan K. Moghadam

Matthew L. Smith

STATE OF OKLAHOMA, COUNTY OF CLEVELAND: ss:

On December 15th, 2009, before me, a Notary Public, personally appeared **Sassan K. Moghadam**, a single man, to me known to be the identical person who executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

NOTARY PUBLIC 01018399 IN AND FOR STATE OF OKLAHOMA
OFFICIAL SEAL
Rita J. Robertson
Cleveland County
Commission Expires 11-15-13

(Seal)

Notary Public

My comm.. # 01018399
Expires on Nov. 15, 2013

STATE OF OKLAHOMA, COUNTY OF CLEVELAND: ss:

On December 15th, 2009, before me, a Notary Public, personally appeared Matthew L. Smith, a single man, to me known to be the identical person who executed the same as his free and voluntary act and deed, for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

AMANDA S. RAY NOTARY PUBLIC IN AND FOR STATE OF OKLAHOMA #04009669 • October 29, 2012

(Seal)

Notary Public

My comm.. #_____
Expires on _____

**(after filing, return to City Attorney, Norman City Hall, P O Box 370, Norman, OK 73070)**

# PRIVATE WATER SERVICE LINE AGREEMENT

STATE OF OKLAHOMA
COUNTY OF CLEVELAND | ss:

**KNOW ALL PERSONS BY THESE PRESENTS:**

This agreement, made and entered into at Norman, Cleveland County, Oklahoma, this the 19th day of November, A.D. 2009 by and between the City of Norman, Oklahoma, a municipal corporation, (hereinafter referred to as "City"), and Sassan K. Moghadam (hereinafter referred to as "Property Owner"), who is the owner of property located at the northeast corner of West Tecumseh Road at 60th Avenue N.W. in Norman, Oklahoma, a/k/a Westridge Farms Addition (hereinafter referred to as the "Property").

**WITNESSETH:**

**WHEREAS**, the subdivision where the Property is located is not presently served by the City's water system; and

**WHEREAS**, Property Owner wishes to secure water through the City's water system by installing a service line from the City's water system to the Property; and

**WHEREAS**, Property Owner recognizes that installing a service line from the City's water system to the Property may result in extended periods of disuse allowing for the growth of bacteria and other substances in the stagnant water in the supply passages and that the City cannot guarantee the quality of water or adequate water pressure beyond the City meter under these circumstances; and

**WHEREAS**, to address the water quality issue, Property Owner agrees to require as a covenant running with the land, that any residential structure to be erected on a lot of this

City of Norman
PO Box 370
Norman, OK 7321-8

subdivision be required to install an appropriate disinfection system to safeguard the water quality provided to the residents.

**NOW, THEREFORE**, in consideration of the City agreeing to allow said Property to be connected to the City's water system, Property Owner hereby agrees, and agrees to bind all owner's heirs and assigns forever, to the following terms and conditions.

1. Property Owner will pay for the entire cost of the service line, including installation, future repair and maintenance, all licenses or permits, all legal documents, the grant of easement, recording fees and insurance as may be necessary.

2. Property Owner will comply with all relevant governmental rules, laws, and requirements related to the construction, installation, and repair to the service line, and agrees to obtain all licenses and permits prior to start of actual construction.

3. Property Owner will not permit any taps by other property owners to the service line.

4. Property Owner agrees to install an air-gap or appropriate backflow prevention device to prevent potential sources of contamination from entering the public water system.

5. Property Owner agrees that a requirement of any residential building permit to be issued for lots in this subdivision shall include the installation of an appropriate disinfection system to safeguard the water quality to be provided to the residence.

6. Property Owner hereby agrees to release, indemnify and hold harmless City, its successors and assigns, from any claims, demands, liability or damages and any expenses incurred by reason of the same, including reasonable attorneys fees incurred by City, whether or not a suit is involved, in any way arising from or related to low water pressure or the growth of bacteria and other substances in the potentially stagnant water in the service line.

7. If a public water system is provided for the common benefit of this lot and other lots in the subdivision, then Property Owner agrees to abandon the service line and connect to the public water system provided for the common benefit of other lots in the subdivision.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument on the day and year first above written.

THE CITY OF NORMAN, OKLAHOMA

_____

Cindy Rosenthal, Mayor

City of Norman
PO Box 370
Norman, OK 7

Water Service Agreement previously considered
By City Council on November 24, 2009

ATTEST:

APPROVED BY CITY OF NORMAN LEGAL DEPARTMENT
BY _____ DATE 11-19-09

_____
Brenda Hall, City Clerk

On this _____ day of _____, 2009, before me personally appeared _____ and _____, to me to be known to be the identical persons who executed the same as their free and voluntary act and deed of such municipal corporation, for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

_____
Notary Public

My Commission Expires:
_____

_____
Sassan K. Moghadam, Property Owner

On this _____ day of _____, 2009, before me personally appeared Sassan K. Moghadam, to me to be known to be the identical person(s) who executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

NOTARY PUBLIC 01018399 IN AND FOR STATE OF OKLAHOMA
OFFICIAL SEAL
Rita J. Robertson
Cleveland County
Commission Expires 11-15-13

_____
Notary Public

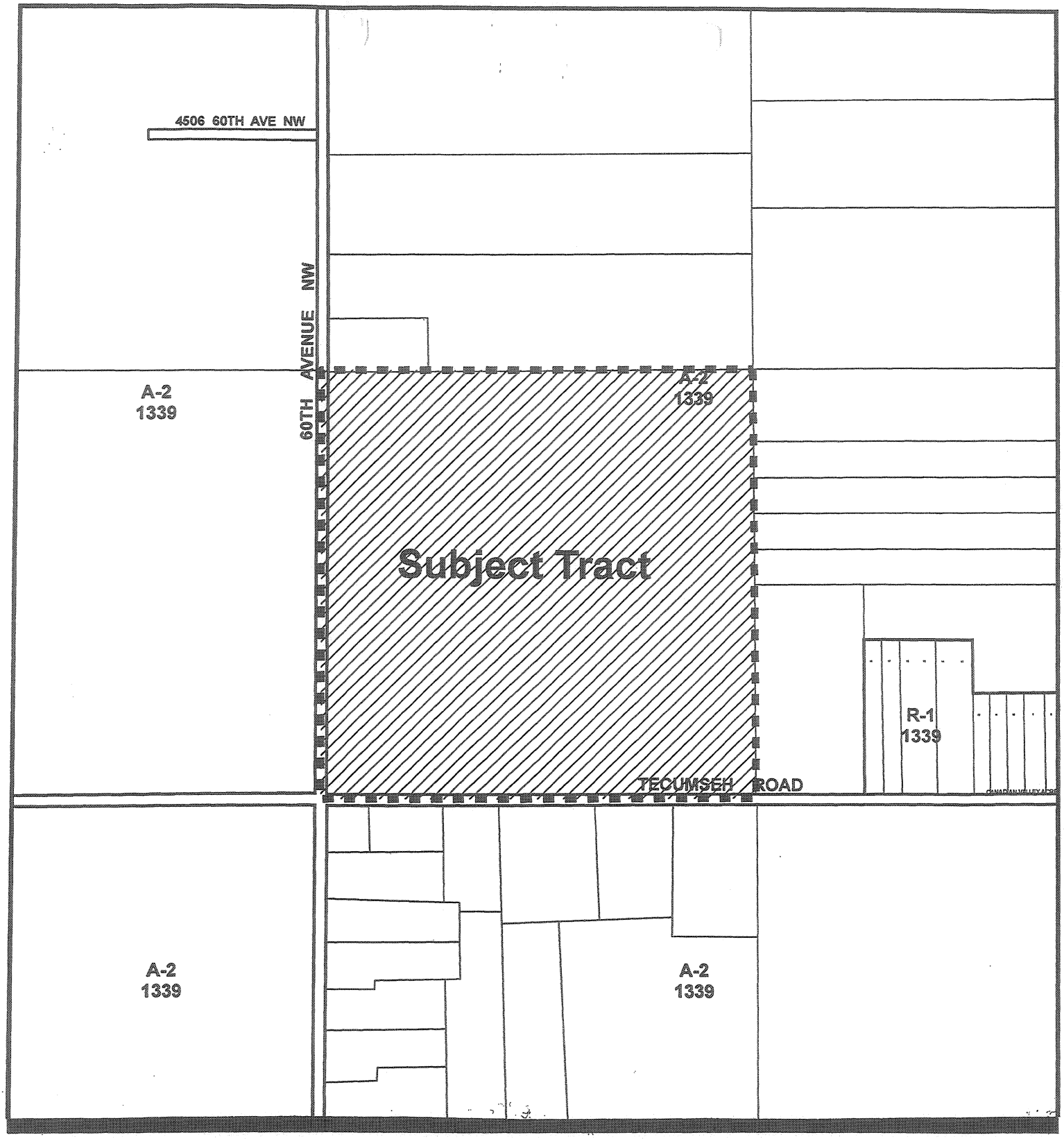
My Commission Expires:
Nov. 15, 2013

City of Norman
PO Box 370
Norman, OK 73069-0370

# NORMAN RURAL CERTIFICATE OF SURVEY
# WESTRIDGE FARMS

N
W E
S

1 inch equals21-11) fe

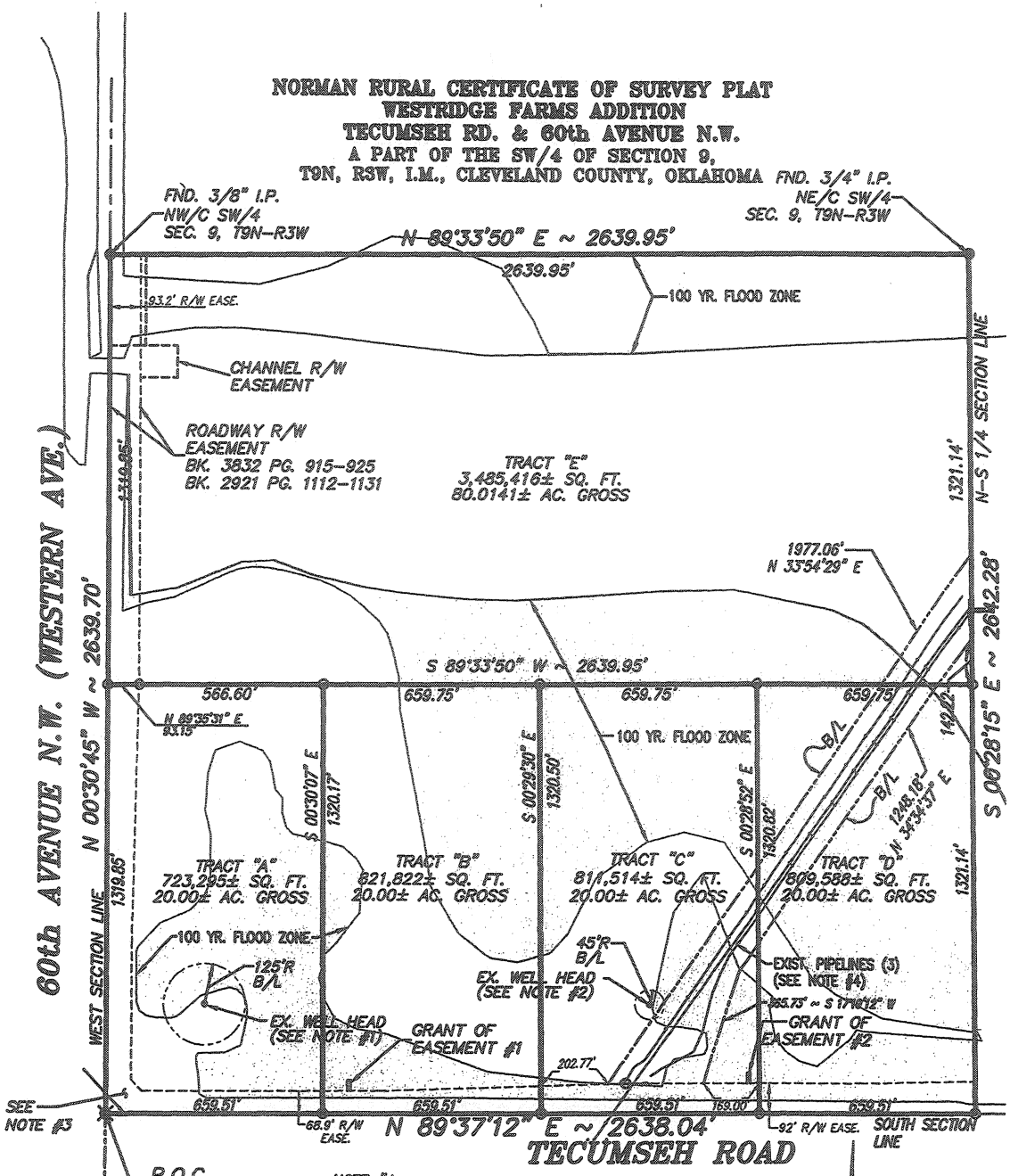



# NORMAN RURAL CERTIFICATE OF SURVEY PLAT
# NO. COS-0910-1
# WESTRIDGE FARMS ADDITION CERTIFICATE OF SURVEY

OWNER/DEVELOPER: Sassan Moghadam
ENGINEER/SURVEYOR: Red Plains Surveying Co.

21-12

# NORMAN RURAL CERTIFICATE OF SURVEY PLAT
## WESTRIDGE FARMS ADDITION
## TECUMSEH RD. & 60th AVENUE N.W.
### A PART OF THE SW/4 OF SECTION 9, T9N, R3W, I.M., CLEVELAND COUNTY, OKLAHOMA




NOTE #1:
EXIST. WELL HEAD LOCATION
N. 702515.43
E. 2109229.61

NOTE #2:
N. 702522.20
E. 2110560.05

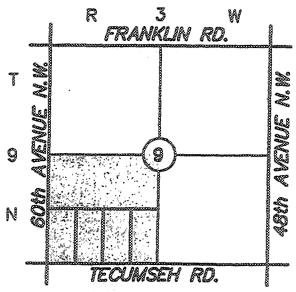
NOTE #3:
BK. 1054 PG. 340 (BLANKET)
BK. 1059 PG. 226 (BLANKET)

NOTE #4:
PIPELINE EASEMENTS:
BK. 460 PG. 123
BK. 1239 PG. 398
BK. 362 PG. 322 (BLANKET)
BK. 363 PG. 493 (BLANKET)
BK. 362 PG. 344 (BLANKET)
BK. 362 PG. 328 (BLANKET)
BK. 364 PG. 276 (BLANKET)

GRANT OF EASEMENT #1
PUBLIC UTILITY EASEMENT
BK. 2921 PG. 1142-1151

GRANT OF EASEMENT #2
PUBLIC UTILITY EASEMENT
BK. 2921 PG. 1152-1161

SCALE : 1" = 400'
0 200 400
BASIS OF BEARING IS NORMAN G.I.S.




LOCATION MAP
NOT TO SCALE

RED PLAINS SURVEYING COMPANY
6744 Melrose Lane
Oklahoma City, Oklahoma, 73127
Telephone: (405) 603-7842
FAX: (405) 603-7852

CERTIFICATE OF AUTHORIZATION NO. 3948 EXPIRES JUNE 30, 2011

CERTIFICATE OF SURVEY ITEM NO. 4

## STAFF REPORT

**ITEM:** Consideration of NORMAN RURAL CERTIFICATE OF SURVEY NO. COS-0910-1 for WESTRIDGE FARMS ADDITION.

**LOCATION:** Located at the northeast corner of the intersection of West Tecumseh Road and 60th Avenue NW.

**INFORMATION:**

1. Owners. Sassan Moghadam
2. Developer. Sassan Moghadam
3. Surveyor. Red Plains Surveying Co.

**HISTORY:**

1. The property for the proposed development is A-2 zoning classification.

**IMPROVEMENT PROGRAM:**

1. Fire Protection. Fire protection will be provided by the Norman Fire Department with use of a pumper truck and tanker truck.
2. Sewage. Individual septic systems will be installed in accordance with City and Oklahoma Department of Environmental Quality standards. With flood plain on the property these facilities must be installed outside the flood plain.
3. Water. Individual water wells may be installed in accordance with City and Oklahoma Department of Environmental Quality standards. The developer may request access to the City's public water system. If approved, the developer or lot owner would obtain private easements to the east of this property and connect private service lines to an existing City water main located near Tecumseh Road and 48th Avenue N.W. He would be required to continue that private easement across his property to serve the lots. Water meters would be set at the public main and the service lines would be required to be in a private easement outside the public right-of-way. Under this scenario, the City may not be able to provide the owners of the tracts satisfactory or suitable water pressure at all times.

**IMPROVEMENT PROGRAM, (con't):**

4. Oil Wells and Petroleum Pipelines. The surveyor has provided information for all existing oil wells, plugged wells and petroleum pipelines. Although the pipeline easements are blanket easements, the owner has established building limit lines on the certificate of survey.

5. Easements. Easements or rights-of-way have been dedicated for West Tecumseh Road and 60th Avenue N.W.

6. Acreage. Tract A consists of 20.00 acres, Tract B consists of 20.00 acres, Tract C consists of 20.00 acres, Tract D consists of 20.00 acres, and Tract E consists of 80.01 acres.

7. Flood Plain. The property contains flood plain. However, the owners do not intend to build in the flood plain. If there are any proposed structures, a flood plain permit will be required.

**SUPPLEMENTAL MATERIAL**: Copies of a location map and Certificate of Survey No. COS-0910-1 for Westridge Farms Addition are included in the Agenda Book.

**STAFF COMMENTS AND RECOMMENDATION**: Staff recommends approval of the Norman Rural Certificate of Survey No. COS-0910-1 for Westridge Farms Addition.

**ACTION NEEDED**: Recommend approval or disapproval of Certificate of Survey No. COS-0910-1 for Westridge Farms Addition to City Council.

**ACTION TAKEN**:_____

Item No. 2, being:
**CONSENT DOCKET**

Chairman Gasaway announced that the Consent Docket is designed to allow the Planning Commission to approve a number of items by one motion and vote. He read the items recommended for inclusion on the Consent Docket, as follows:

Item No. 3, being:
**APPROVAL OF THE SEPTEMBER 10, 2009 REGULAR SESSION MINUTES.**

Item No. 4, being:
**CONSIDERATION OF A NORMAN RURAL CERTIFICATE OF SURVEY (COS-0910-1) SUBMITTED BY SASSAN MOGHADAM (RED PLAINS SURVEYING CO.) FOR WESTRIDGE FARMS ADDITION, GENERALLY LOCATED AT THE NORTHEAST CORNER OF TECUMSEH ROAD AND 60TH AVENUE N.W. (WESTERN AVENUE).**

Item No. 5, being:
**CONSIDERATION OF A NORMAN RURAL CERTIFICATE OF SURVEY (COS-0910-3) SUBMITTED BY SUSAN S. HOSLER REVOCABLE TRUST (POLLARD & WHITED SURVEYING, INC.) FOR THE OAKS ON FRAKLIN, GENERALLY LOCATED SOUTH SIDE OF FRANKLIN ROAD AND APPROXIMATELY ½ MILE EAST OF 60TH AVENUE N.E.**

*

Chairman Gasaway asked if any member of the Planning Commission wished to remove any item from the Consent Docket. There being none, he asked whether anyone in the audience wished to remove any item from the Consent Docket. There being none, he turned to the Planning Commission for discussion.

*Ed Adwon moved to place Item Nos. 3 through 5 on the Consent Docket and approve by one unanimous vote. Zev Trachtenberg seconded the motion.*

There being no further discussion, a vote was taken with the following result:

| | |
|---|---|
| YEAS | Ed Adwon, Jim Gasaway, Curtis McCarty, Paul Minnis, Roberta Pailes, Andy Sherrer, Zev Trachtenberg |
| NAYES | None |
| MEMBERS ABSENT | Tom Knotts, Chris Lewis |

Recording Secretary Roné Tromble announced that the motion, to place Item Nos. 3 through 5 on the Consent Docket and approve by one unanimous vote, passed by a vote of 7-0.

* * *

Item 25, being:

PROCLAMATION NO. P-0910-10: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING NOVEMBER 23 THROUGH 27, 2009, AS TOBACCO FREE WEEK IN THE CITY OF NORMAN.

Councilmember Cubberley moved that receipt of Proclamation No. P-0910-10 proclaiming November 23 through 27, 2009, as Tobacco Free Week in the City of Norman be acknowledged and the filing thereof be directed, which motion was duly seconded by Councilmember Kovach;

Items submitted for the record
1. Proclamation No. P-0910-10

Participants in discussion
1. Mr. Travis Humphrey, Chair of Tobacco Free Coalition for Cleveland County, accepted the proclamation, thanked the Council, and expressed appreciation and presented a plaque to Mr. Jud Foster, Director of Parks and Recreation, for promoting a smoke-free environment in City of Norman parks

and the question being upon acknowledging receipt of Proclamation No. P-0910-10 proclaiming November 23 through 27, 2009, as Tobacco Free Week in the City of Norman and upon the subsequent directive, a vote was taken with the following result:

| | |
|---|---|
| YEAS: | Councilmembers Atkins, Butler, Cubberley, Ezzell, Griffith, Kovach, Quinn, Mayor Rosenthal |
| NAYES: | None |

The Mayor declared the motion carried and receipt of Proclamation No. P-0910-10 proclaiming November 23 through 27, 2009, as Tobacco Free Week in the City of Norman acknowledged; and the filing thereof was directed.

* * * * *

Item 26, being:

CONSIDERATION OF NORMAN RURAL CERTIFICATE OF SURVEY NO. COS-0910-1 FOR WESTRIDGE FARMS ADDITION.

Councilmember Cubberley moved that Norman Rural Certificate of Survey No. COS-0910-1 be approved and the filing thereof with the Cleveland County Clerk be directed, which motion was duly seconded by Councilmember Quinn;

Items submitted for the record
1. Memorandum dated October 16, 2009, from Ken Danner, Development Manager, to Honorable Mayor and Councilmembers
2. Private Water Service Line Agreement
3. Location maps
4. Norman Rural Certificate of Survey Plat, Westridge Farms Addition, prepared by Red Plains Surveying Company, Certificate of Authorization No. 3948
5. Staff Report dated October 8, 2009, recommending approval
6. Pertinent excerpts from Planning Commission minutes of October 8, 2009
7. Memorandum dated June 6, 2003, from Jeff F. Raley, City Attorney, to Jimmy Berry, Director, Public Works
8. Process of Creating an Improvement District
9. Memorandum dated July 11, 2002, from Jeff F. Raley, City Attorney, to the Honorable Mayor and City Councilmembers
10. Ordinance No. O-0203-1 with Assessment Roll for West Tecumseh Road Water Improvement District

Participants in discussion
1. Mr. Tom McCaleb, SMC Consulting Engineers, P.C., 815 West Main Street, Oklahoma City, engineer representing applicant
2. Mr. Mark Daniels, Utilities Engineer
3. Mr. Jeff Bryant, City Attorney

Item 26, continued:

and the question being upon approving Norman Rural Certificate of Survey No. COS-0910-1 and upon the subsequent directive, a vote was taken with the following result:

| | |
|---|---|
| YEAS: | Councilmembers Atkins, Ezzell, Quinn, Mayor Rosenthal |
| NAYES: | Councilmembers Butler, Cubberley, Griffith, and Kovach |

The Mayor declared the motion failed and Norman Rural Certificate of Survey No. COS-0910-1 was not approved.

* * * * *

Item 27, being:

RESOLUTION NO. R-0910-70: A RESOLUTION OF COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ADOPTING THE NORMAN PARKS AND RECREATION MASTER PLAN AND DIRECTING AND PROVIDING GUIDANCE TO CITY STAFF AS IT PROCEEDS WITH THE DEVELOPMENT OF A PLAN TO IMPLEMENT THE RECOMMENDATIONS CONTAINED IN THE PLAN.

Councilmember Griffith moved that Resolution No. R-0910-70 be adopted, which motion was duly seconded by Councilmember Quinn;

Items submitted for the record

1. Memorandum dated November 12, 2009, from Jud Foster, Director of Parks and Recreation, to Honorable Mayor and Councilmembers
2. Resolution No. R-0910-70 with attachment, a Legacy for the Next Generation – the Norman Parks and Recreation Master Plan Key Recommendations and Implementation Actions
3. Exception to the Parks and Recreation Master Plan, Key Recommendations – 2010 – 2020, from Nancy Yoch, received October 1, 2009
4. Pertinent excerpts of Board of Parks Commissioners minutes of October 1, 2009
5. City Council Study Session minutes of October 20, 2009
6. Draft of the Norman Parks and Recreation Master Plan, A Legacy for the Next Generation, prepared by Halff Associates, Inc.

Participants in discussion

1. Mr. Jud Foster, Director of Parks and Recreation
2. Ms. Jackie Farley, Chair of the Parks Master Plan Steering Committee
3. Mr. Jim Carillo, Vice President of Halff Associates, Inc.
4. Ms. Nancy Yoch, 617 Okmulgee, Parks Master Plan Steering Committee members, spoke in support of an Aquatic Facility
5. Mr. Roger Gallagher, 1522 East Boyd Street, spoke in support of an Aquatic Facility
6. Mr. Bobby Stevens, 3801 108th Avenue S.E., made comments
7. Mr. Joe Shepard, 14202 Mesquite Road, protestant
8. Mr. Mark Campbell, 2821 Dewey Avenue, asked questions
9. Mr. Stephen Koranda, Executive Director of the Norman Convention and Visitors Bureau, proponent
10. Mr. Kent Nicholson, 2643 South Pickard Avenue, spoke in support of an Aquatic Facility
11. Mr. Jim Stanley, 3922 Pine Tree Circle, made comments

and the question being upon adopting Resolution No. R-0910-70, a vote was taken with the following result:

| | |
|---|---|
| YEAS: | Councilmembers Atkins, Butler, Cubberley, Ezzell, Griffith, Kovach, Quinn, Mayor Rosenthal |
| NAYES: | None |

The Mayor declared the motion carried and Resolution No. R-0910-70 was adopted.

* * * * *

22. ITEM: ORDINANCE NO. O-0910-10: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, CLOSING A PUBLIC UTILITY EASEMENT STRADDLING THE COMMON BOUNDARY BETWEEN LOT 1 AND LOT 2, BLOCK 10, PARK ADDITION TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (LOCATED AT 3444 AND 3448 GRANT ROAD)

INFORMATION: Planning Commission, in its meeting of August 13, 2009, held a public hearing and received no filed protests were received regarding the following item:

> IDEAL HOMES OF NORMAN, L.P.: Requests closing a public utility easement straddling the common boundary between Lots 1 and 2, Block 10, Park Hill Addition (3444 and 3448 Grant Road)

Planning Commission, by a vote of 9-0, recommends approval of the requested closures; and City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-10 upon First Reading by title. Copies of an advisory memorandum; Ordinance No. O-0910-10; location maps; Staff Report recommending approval; letter of request; abstractor's certificate; Radius map; and pertinent excerpts from Planning Commission minutes are included in the Agenda Book.

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-10 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-10 upon Final Reading as a whole.

ACTION TAKEN: _____

office memorandum

**DATE:** November 24, 2009

**TO:** Honorable Mayor and Councilmembers

**FROM:** Doug Koscinski, AICP DJK
Manager, Current Planning Division

**SUBJECT:** Agenda Item:
Ordinance No. O-0910-10 – Ideal Homes of Norman, L.P., requests closure of a fifteen foot platted utility easement between Lot 1 and Lot 2, both in Block 10, PARK HILL ADDITION.

**BACKGROUND**. The applicant is the owner and developer of this subdivision, and has submitted an application to construct a new home on one of the lots. While preparing that application, the surveyor discovered that the utility easement needed to be adjusted to account for the alignment of the sewer, which would also affect the layout of the home that did not precisely fit onto the lot. The applicant submitted a Lot Line Adjustment to move the boundary line which separates both lots, but such adjustments do not alter any platted utility easements. While the Lot Line Adjustment can be administratively approved, action to close the platted utility easement requires that an ordinance closing the easement be adopted by City Council, which must then be vacated in District Court.

**DISCUSSION**. All franchised utility companies were contacted as part of the notification for this request. A newly described easement has already been submitted which will accommodate the existing sewer line. The new easement also covers an existing electric line, which will not need to be relocated. A companion item accepting the new easement will be submitted by the Public Works Department. No other conflicts were identified, and no objections were filed to this closure request.

**STAFF RECOMMENDATION**: The attached documents include the location map, staff report, and original plat for the subject lots showing the utility easement. The item comes with a unanimous recommendation for approval from the Planning Commission. Staff recommends approval of Ordinance O-0910-10.

DK/rnt

Reviewed by: Susan Connors, Director of Planning & Community Development SMC
Jeff Bryant, City Attorney BNJHB
Steve Lewis, City Manager SL

Attachments: Ordinance No. O-0910-10
Location Map
Staff Report
Plat
Planning Commission Minutes

O-0910-10

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, CLOSING A PUBLIC UTILITY EASEMENT STRADDLING THE COMMON BOUNDARY BETWEEN LOT 1 AND LOT 2, BLOCK 10, PARK HILL ADDITION TO THE CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (LOCATED AT 3444 AND 3448 GRANT ROAD)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That, pursuant to Resolution Number R-8182-66, Ideal Homes of Norman, L.P., owner of the subject property, has petitioned the City to have the public utility easement straddling the common boundary between Lot 1 and Lot 2, Block 10, PARK HILL ADDITION closed; and,

§ 2. That, also pursuant to Resolution Number R-8182-66, the proper notice has been given, and the maps, memorandums and other items required by said Resolution have been presented to this Council; and

§ 3. That, also pursuant to Resolution Number R-8182-66, a public hearing has been held regarding said closing; and

§ 4. That, the public utility easement straddling the common boundary between Lot 1 and Lot 2, Block 10, PARK HILL ADDITION, herein after described, to wit:

> The fifteen foot (15') platted utility easement straddling the common boundary between Lot 1 and Lot 2, both in Block 10, PARK HILL ADDITION TO NORMAN according to the Plat filed in Book 21 Plats, Pages 137-139, Cleveland County Clerk's office which runs for a distance of 173.07' along said common boundary.

is hereby closed.

§ 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this _____ day of

_____, 2009.

_____
(Mayor)

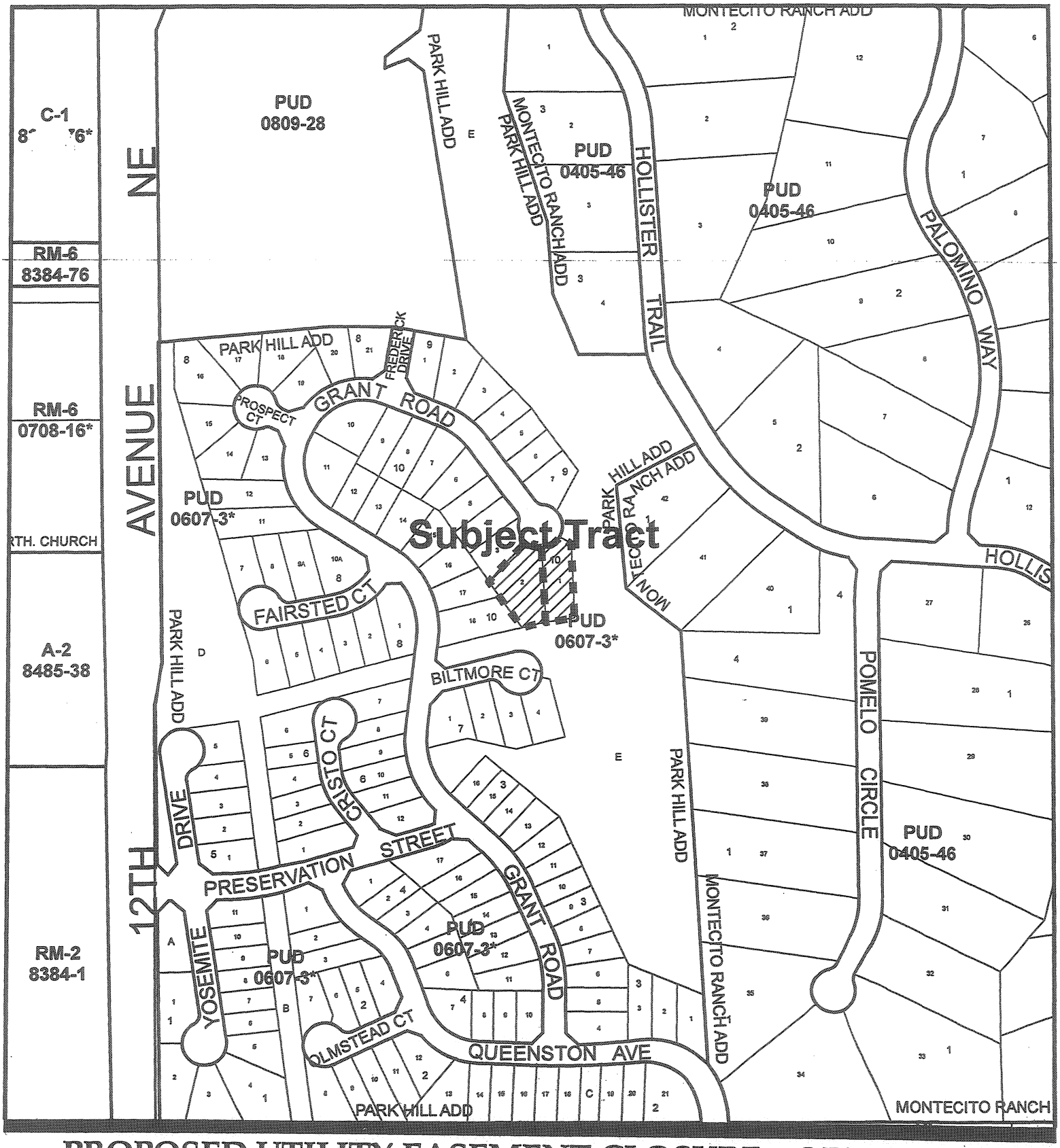
ATTEST:

_____
(City Clerk)

NOT ADOPTED this _____day of

_____, 2009.

_____
(Mayor)



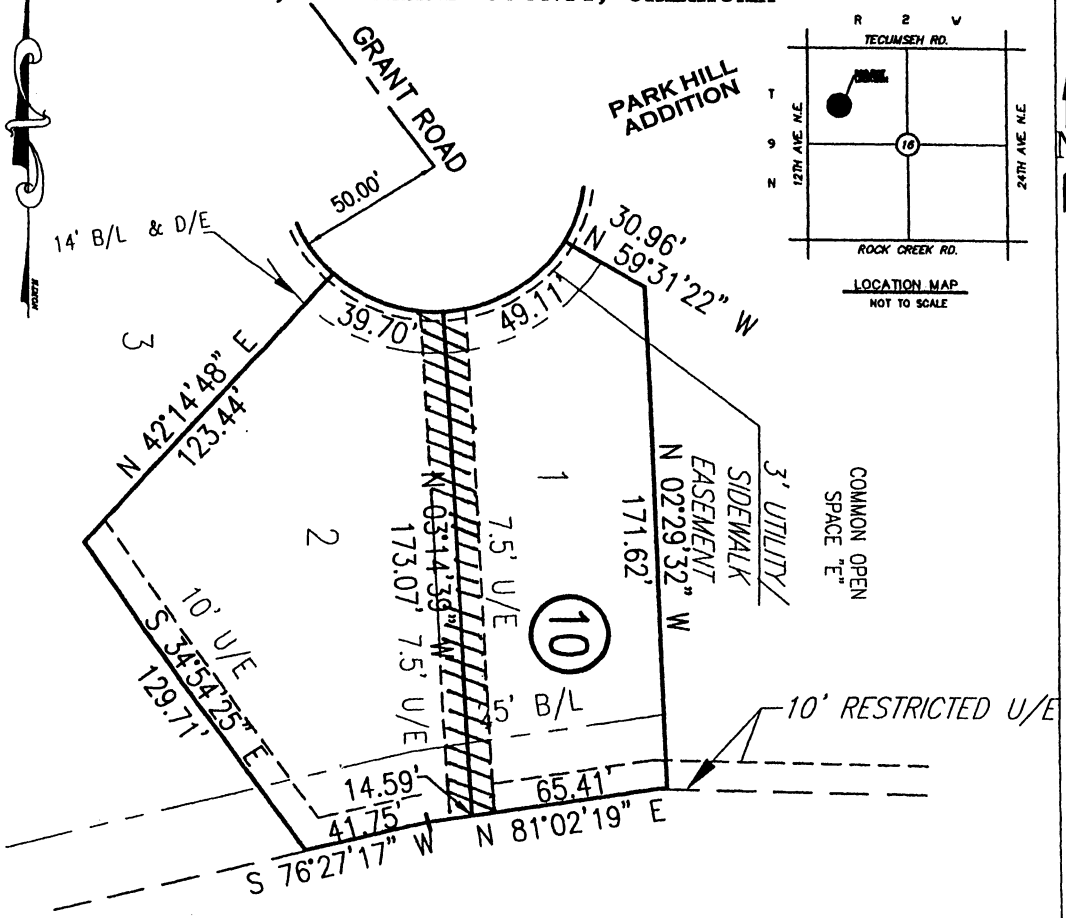

# PROPOSED UTILITY EASEMENT CLOSURE – ORDINANCE NO. O-0910-10

APPLICANT: Ideal Homes of Norman, L.P.

REQUEST: Closure of a 15′ platted utility easement between Lot 1 and Lot 2, both in Block 10, PARK HILL ADDITION.

# ORIGINAL PLATTING

## LOTS 1 & 2, BLOCK 10, PARK HILL ADDITION
## NORMAN, CLEVELAND COUNTY, OKLAHOMA







LOCATION MAP
NOT TO SCALE

BASIS OF BEARING NOTE:
*Park Hill Addition Final Plat was used as the basis of bearing for the purpose of this survey.*

LEGAL DESCRIPTION:
ORIGINAL PLATTING

*A tract of land being a part of the Northwest Quarter (NW/4) of Section 16, Township 9 North, Range 2 West of the Indian Meridian, being a part of PARK HILL ADDITION to Norman, Cleveland County, Oklahoma, being more particularly described as follows:*

*All of Lots 1 and 2, Block 10, PARK HILL ADDITION to Norman, Cleveland County, Oklahoma.*

SCALE : 1" = 50'
0 25 50

John Powers, P.L.S. 1369

8-11-09
Date of Signature

REGISTERED PROFESSIONAL LAND SURVEYOR
JOHN POWERS
L.S. 1369
OKLAHOMA

RED PLAINS

CERTIFICATE OF AUTHORIZATION NO. 3948 EXPIRES JUNE 30, 2011
SHEET 1 OF 3

K.W. 7/08/09 REVISED: 7/08/09 RPS # 4275

"EXHIBIT A" - PAGE 1 OF 1

ORDINANCE NO. O-0910-10 ITEM NO. 6

## STAFF REPORT

**GENERAL INFORMATION.** Ideal Homes of Norman, L.P. requests closure of a 15' platted utility easement between Lot 1 and Lot 2, Block 10, PARK HILL ADDITION.

**BACKGROUND.** The applicant is the owner and developer of this subdivision, and has submitted an application to construct a new home on one of the lots. While preparing that application, the surveyor discovered that the utility easement needed to be adjusted to account for the alignment of the sewer, which would also affect the layout of the home that did not precisely fit onto the lot. The Lot Line Adjustment is approvable as submitted, but such adjustments do not alter any platted utility easements, which require a formal process to close and vacate such instruments.

**DISCUSSION.** All franchised utility companies were contacted as part of the notification for this request. A newly described easement has already been submitted which will accommodate the existing sewer line. The new easement also covers an existing electric line, which will not need to be relocated. No other conflicts were identified, and no objections were filed to this closure request.

**RECOMMENDATION.** Staff is able to support this request, as the only conflict is with a sewer line, which has already been relocated. Staff recommends approval of this request for closure of the utility easement.

# HEIPLE LAW OFFICES, INC.

**218 East Eufaula**
**P. O. Box 847**
**Norman, OK 73070**
**(405) 321-0090**

**FAX (405) 321-9763**
**heiplelaw@cox.net**


Oct. 6, 2009

City of Norman
c/o City Clerk's Office
Norman City Hall
(hand-delivered)

RE: Utility easement/lot line closing and relocation petition of IDEAL HOMES OF NORMAN, LP

Ladies and Gentlemen:

Enclosed are the following:

1. Petition to close and relocate platted utility easement and lot line;
2. List of surrounding property owners, certified by Abstract Co.;
3. Our firm's check for $400 to cover the City's filing fee;

We request that this item be scheduled on the **November 12, 2009**, agenda of the Norman **Planning Commission**. Please let us know if anything else is needed. Thank you.

Sincerely,

Harold Heiple

H. L. Heiple

HLH:le
Enclosures
cc: Rone' Tromble, Planning Dept.
Ken Danner, Pub. Works Dept.
Client

FILED IN THE OFFICE
OF THE CITY CLERK
ON 10/6/09

To: City of Norman, c/o City Clerk Brenda Hall
Norman City Hall, Norman, OK (hand-delivered)

Re: **Petition to close a part of a utility easement in PARK HILL ADDITION (3444/3448 Grant Road, Norman, OK)**

Date: October 6, 2009

1. The undersigned Applicant, **Ideal Homes of Norman, LP** is the beneficial owner of all the land on one side of the portion of the utility easement, described below, which is proposed for closing.

2. It is in the best interest of both the undersigned and the City of Norman to release, close, and subsequently vacate, and foreclose the right to reopen in District Court the following-described portion of an interior utility easement in Park Hill Addition to Norman:

> The fifteen foot (15') platted utility easement straddling the common boundary between **Lot 1 and Lot 2, both in Block 10, PARK HILL ADDITION TO NORMAN** according to the Plat filed in Book 21 Plats, Pages 137-139, Cleveland County Clerk's office which runs for a distance of 173.07' along said common boundary, shown cross-hatched on the attached "Exhibit A" map and hereinafter referred to as "**the Subject Property**".

3. If there are utility lines or facilities in, on under or over any part(s) of Subject Property, Applicant will cause same to be respected and protected, as required by law.

4. An ownership list certified by a bonded abstracter, reflecting all owners of record, according to County Treasurer records, of property within 300 feet in any direction of the above-described Subject Property is submitted herewith. A map which is attached to said ownership list shows the location of the ownership lines for each owner of record whose name appears on the ownership list. Enclosed is our firm check for the required filing fee of $400.

5. Action by the Board of County Commissioners of Cleveland County is not necessary. The undersigned will pay the cost of newspaper publication of the required Notice.

Wherefore, pursuant to Resolution 8182-66, as amended, of the City of Norman, the undersigned Applicant requests official closing of the above-described Subject Property, by enactment of an ordinance by the City Council of the City of Norman.

**IDEAL HOMES OF NORMAN, LP, Applicant**, by: _____
H. L. Heiple, Attorney-Agent, Heiple Law Offices, Inc. Box 847, Norman, OK 73070
Telephone (405) 321-0090 FAX 321-9763

cc: Ken Danner, CON Public Works
Rone' Tromble, CON Planning Dept.
Client

# CERTIFICATE OF BONDED ABSTRACTOR
(300 FEET RADIUS REPORT)

STATE OF OKLAHOMA )
) §:
COUNTY OF CLEVELAND )

The undersigned bonded abstractor in and for Cleveland County, State of Oklahoma, does hereby certify that the following Ownership is true and correct according to the current year's tax rolls in the office of the County Treasurer of Cleveland County, Oklahoma, as updated by the records of the County Clerk of Cleveland County, Oklahoma; that the owners, as reflected by said records, are based on the last conveyance or final decree of record of certain properties located within 300 feet in all directions of the following described land:

Lots One (1) and Two (2), in Block Ten (10), of PARK HILL ADDITION, A Planned Unit Development, to Norman, Cleveland County, Oklahoma, according to the recorded plat thereof.

and find the following owners, addresses and brief legal descriptions on the attached pages numbered from (1) to (3 ), both inclusive.

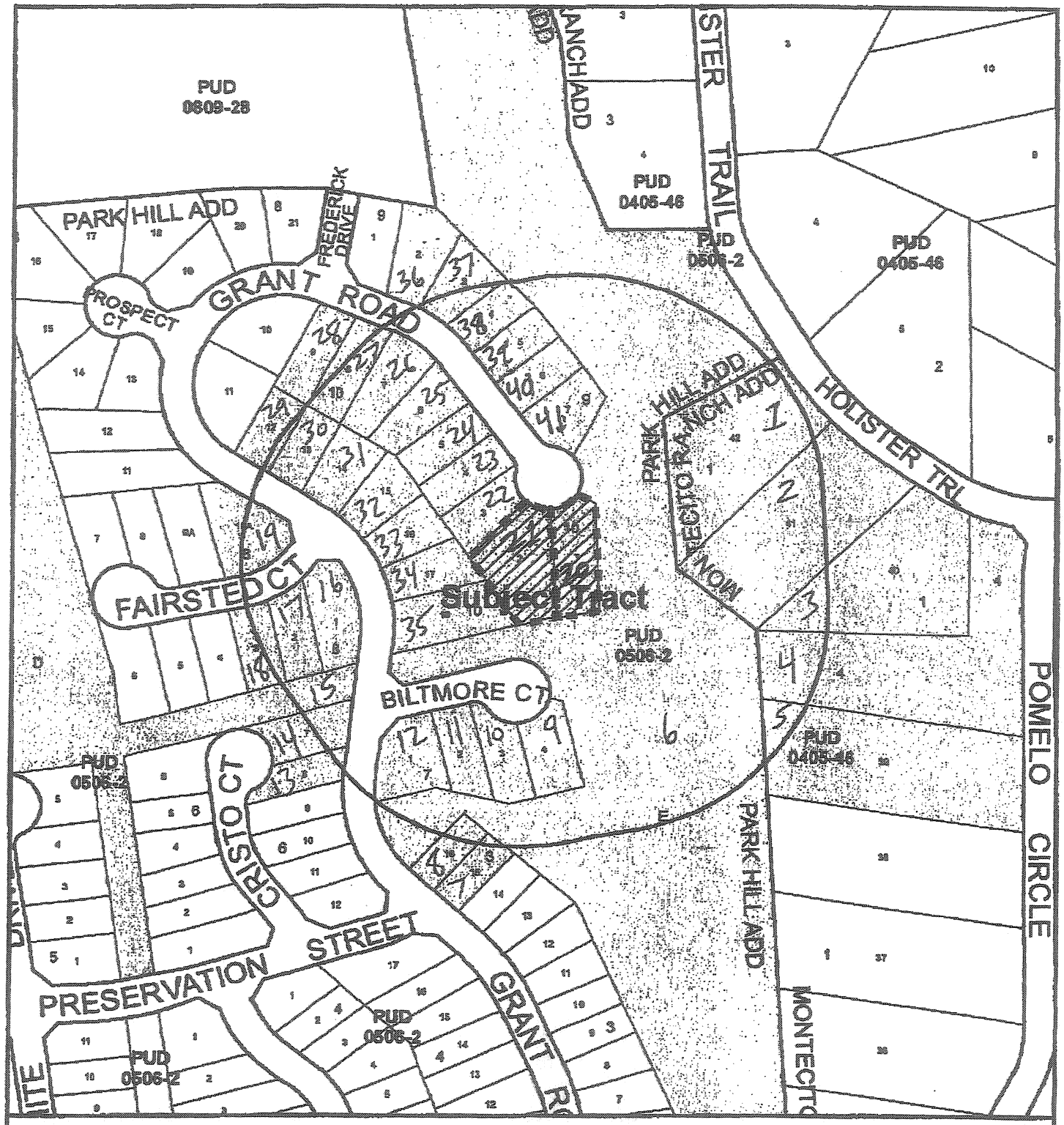
*NOTICE TO CUSTOMERS: This report is released with the understanding that the information is strictly confidential. This report contains information from public land records only and is not to be construed as an abstract of title, opinion of title, title commitment, title insurance policy, or environmental research report. As used herein, the term "public land records" means those land records which under the recording laws of the applicable state, impart constructive notice to the third parties with respect to recorded, unreleased or record instruments memorializing legal interests in real estate. The company suggests that you contact your attorney for matters of a legal nature or legal opinion. We have exercised due care and diligence in preparing this report, however, the Abstractor does not guarantee validity of the title and acceptance of this report by the Company or person(s) for whom this report is made, constitutes agreement and confirmation of the limitation of this report.*

Dated: September 10, 2009 at 7:30 AM

**First American Title & Trust Company**

By: Scott A. R

Scott Rountree
Abstractor License No. 4021
S.A.&I. Certificate of Authority No. 52
File No. 1386457-MO99




# Radius Map

Map Produced by the City of Norman
Geographic Information System.
(405) 366-5436
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.

N
W E
S

Scale: 1" = 200'
September 14, 2009

Subject Tract
Radius
Zoning
Parcels
Notification Area

# NORMAN PLANNING COMMISSION
# REGULAR SESSION MINUTES

## NOVEMBER 12, 2009

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 12th day of November, 2009. Notice and agenda of the meeting were posted at the Norman Municipal Building twenty-four hours prior to the beginning of the meeting.

Chairman Jim Gasaway called the meeting to order at 6:30 p.m. He introduced Diana Hartley, who was recently appointed to the Planning Commission to take the place of Ed Adwon.

Item No. 1, being:
**ROLL CALL.**

| | |
|---|---|
| MEMBERS PRESENT | Jim Gasaway<br>Diana Hartley<br>Tom Knotts<br>Chris Lewis<br>Curtis McCarty<br>Paul Minnis<br>Roberta Pailes<br>Andy Sherrer<br>Zev Trachtenberg |
| MEMBERS ABSENT | None |

A quorum was present.

| | |
|---|---|
| STAFF MEMBERS PRESENT | Susan Connors, Director, Planning & Community Development<br>Doug Koscinski, Manager, Current Planning Division<br>Ken Danner, Development Coordinator<br>Roné Tromble, Recording Secretary<br>Leah Bunney, Asst. City Attorney<br>Larry Knapp, GIS Analyst<br>Jane Hudson, Planner II<br>Susan Atkinson, Planner I |

* * *

Item No. 6, being:
**ORDINANCE NO. O-0910-10 – IDEAL HOMES OF NORMAN, L.P., REQUESTS CLOSURE OF A FIFTEEN FOOT PLATTED UTILITY EASEMENT BETWEEN LOT 1 AND LOT 2, BOTH IN BLOCK 10, PARK HILL ADDITION.**

**ITEMS SUBMITTED FOR THE RECORD:**
1. Location Map
2. Staff Report
3. Plat

**PRESENTATION BY THE APPLICANT:**
1. Harold Heiple, representing the applicant, 218 East Eufaula – This is an application to close and relocate a utility easement which exists only between two lots out in Park Hill Addition. The application has absolutely no impact or effect on any other property. The easement in question straddles the common property line between these two lots. A house has already been built on the eastern lot. The lot on the west is undeveloped and ready to build, and they realized that they need to relocate the lot line. In doing that, it becomes necessary for the City to close the utility easement, and then subsequently go to District Court and vacate it. The City has already approved, and a replacement sewer line has already been installed. The replacement location for the easement has been provided to staff. This is a relatively minor adjustment and has no impact on any other property. There have been no protests and staff recommends approval.

Chairman Gasaway asked if there were any questions for Mr. Heiple. There being none, he asked if anyone in the audience wished to speak on this item. There being none, he turned the discussion to the Planning Commission.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**
*Paul Minnis moved to recommend adoption of Ordinance No. O-0910-10 to the City Council. Zev Trachtenberg seconded the motion.*

| | |
|---|---|
| YEAS | Jim Gasaway, Diana Hartley, Tom Knotts, Chris Lewis, Curtis McCarty, Paul Minnis, Roberta Pailes, Andy Sherrer, Zev Trachtenberg |
| NAYES | None |
| MEMBERS ABSENT | None |

Recording Secretary Roné Tromble announced that the motion to recommend adoption of Ordinance No. O-0910-10 to the City Council was adopted by a vote of 9-0.

* * *

23. ITEM: ORDINANCE NO. O-0910-12: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 429.3 OF CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO DEFINE THE VISIBILITY OF CHANGES TO HISTORIC STRUCTURES; TO MODIFY THE MAKEUP OF THE HISTORIC DISTRICT COMMISSION; ADDING DEFINITIONS THERETO; AND PROVIDING FOR THE SEVERABILITY THEREOF.

INFORMATION: Planning Commission, in its meeting of November 12, 2009, held a public hearing, received no filed protests on the above-described item, and by a vote of 9-0, recommends adoption of the ordinance. City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-12 upon First Reading by title. Copies of an advisory memorandum; Ordinance No. O-0910-12; legislatively notated copy of Ordinance No. O-0910-12; Staff Report recommending approval; and pertinent excerpts from Planning Commission, City Council Planning and Community Development, and City Council Conference minutes are included in the Agenda Book.

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-12 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-12 upon Final Reading as a whole.

ACTION TAKEN: _____

office memorandum

DATE: December 1, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Susan Owen Atkinson, Historic Preservation Officer

SUBJECT: Consideration Of Ordinance O-0910-12, revisions to Chapter 22:429.3 Historic District of the Zoning Ordinance and consideration of Ordinance O-0910-18, revisions to Section 4-1901 and Section 4-1902 of Chapter 4 of the Code of the City of Norman

**Background**

For several months staff has worked with the Historic District Commission (HDC) and the City Council Planning & Community Development Committee (PCDC) to amend Chapter 22:429.3 Historic District of the Zoning Ordinance and to make amendments to the Historic Preservation Guidelines section of the *Historic Preservation Handbook* .

Amendments to Chapter 22:429.3 HD of the Zoning Ordinance include the addition of terms, and a revision of the requirements for Historic District Commission make-up. Changes to the Historic Preservation Guidelines include the addition of a guideline allowing the limited use of chain link fencing in historic districts, the addition of a descriptive diagram defining front, side, and rear yards, and a repetition of definitions added to the Zoning Ordinance.

In order to revise the makeup of the Historic District Commission, it is also necessary to revise Sections 4-1901 and 4-1902 of Chapter 4 of the Code of Ordinances in order to make those criteria mirror each other.

Staff presented these proposed amendments at a City Council Conference on October 27 and on November 12 the Planning Commission voted unanimously to recommend approval of these changes to the City Council.

## Historic District Zoning Ordinance

*Visibility*

With input from the HDC and PCDC, staff proposes to amend the District Regulations of the HD Section of the Zoning Ordinance to reflect the importance of primary façades on historic structures. Changes to historic structures would be regulated if such changes were visible from any public right-of-way, excluding alleys. Corner properties, because of their increased visibility, would be regarded as having two primary façades. The amendment also proposes additional language to clarify that rear elevations of historic structures are the appropriate place for additions, pools, decks or other appurtenances of modern life. Proposed amendments to Chapter 22:429.3

Historic District of the Zoning Ordinance would codify language that achieves the following:

- ❑ Defines primary and secondary elevations in historic structures
- ❑ Identifies fronts, sides and rears of historic structures
- ❑ Clarifies that the rear elevation of a historic structure is a secondary elevation, is therefore less important than the primary and will be regulated to a lower standard

This language puts into practice what has been an unwritten policy in Norman's historic preservation program since its inception: front elevations of historic structures are the main focus, side elevations are important, and rear elevations, because they are less visible and therefore less important, can be modified to some degree without compromising the overall historic integrity of the structure.

*Historic District Commission Make-Up*
Based on input from the community, the HDC, and the PCDC, it is recommended that the Zoning Ordinance be amended to state that five members of the HDC shall own property in the historic districts, and at least three of these five shall be residents. Individuals with professional backgrounds will fill the remaining four Commission seats. Lastly, in order to allow the possibility of at-large eligibility, it is proposed that if all of the residency and professional/technical requirements are met, remaining seats on the HDC can be filled by individuals with demonstrated knowledge, experience, expertise or interest in historic preservation.

*Definitions*
In order to clearly define the visibility of changes to historic structures as discussed above, Chapter 22:429.3 Historic District of the Zoning Ordinance should include new definitions for elevation and façade and added definitions of the following terms: front elevation, side elevation, rear elevation, secondary elevation, and primary elevation.

## Proposed Amendments to Historic Preservation Guidelines

*Background*
Historic District Commissioners recently discovered an omission from the *Historic Preservation Handbook.* A guideline on chain link fences was omitted from Section 2.5, Guidelines for Fences and Masonry Walls. During Spring 2008 community discussions of preservation guideline content a majority of property owners supported allowing the use of chain link fences in the rear yards of interior lots. This language was omitted from the final adopted guidelines.

As mentioned previously, it is recommended that definitions for elevation and façade be revised. It is also recommended that definitions for front elevation, side elevation, rear elevation, secondary elevation, and primary elevation be

added to the *Historic Preservation Handbook.* Lastly, a diagram defining front, side, and rear yards was omitted from the Handbook.

**Recommendation**
Staff recommends that the City Council adopt the proposed language amendments to Chapter 22:429.3 Historic District of the Zoning Ordinance, amend Section 4-1901 and Section 4-1902 of Chapter 4 of the Code of the City of Norman and approve changes to the Historic Preservation Guidelines section of the *Historic Preservation Handbook* as presented above.

Reviewed by:

Steve Lewis, City Manager
Susan Connors, Director of Planning and Community Development
Jeff Bryant, City Attorney

**Attachments:**
Ordinance No. O-0910-12
Ordinance No. O-0910-18
Pages from Historic Preservation Guidelines
Staff Report
Planning Commission minutes

O-0910-12

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 429.3 OF CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO DEFINE THE VISIBILITY OF CHANGES TO HISTORIC STRUCTURES; TO MODIFY THE MAKEUP OF THE HISTORIC DISTRICT COMMISSION; ADDING DEFINITIONS THERETO; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA;

§ 1. That Section 22:429.3, Subsection 1, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

**Section 22-429.3. HD, Historic District.**

1. Description and Purpose. The Historic District Ordinance, hereinafter referred to as the "HDO", and its regulations may be applied to property located in any zoning district in accordance with the provisions of this Ordinance. The HDO is intended to be an overlay zoning district and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel.

The City of Norman hereby declares that the historical, architectural, cultural, and aesthetic features of the City represent some of the finest and most valuable resources of the City, and such resources are the embodiment of the heritage of the people of the City of Norman. Therefore, it is hereby declared that the purposes of this Ordinance, to be known as the Historic District Ordinance, shall be a follows:.

* * *

(g) To safeguard the heritage of the City by preserving and regulating historic district structures in such a way that maintains or restores their historic integrity while allowing modern day uses and conveniences for their residents.

* * * * *

§ 2. That Section 22:429.3, Subsection 2, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

2. Definitions. As used in this chapter, unless the context otherwise requires, the following words or phrases have the meaning listed:

* * *

(j) Elevation – an exterior wall of structure

1. *Front elevation* – the façade or face of a structure which is visible and prominent from a public right-or-way and which often has distinguishing architectural features. Structures on corner lots shall be considered to have two front elevations. No structure shall be considered to have more than two front elevations.

2. *Side elevation* – a wall adjacent to the front elevation that is usually visible from a public right-of-way.

3. *Rear elevation* – an elevation parallel to the front façade; the rear elevation usually includes the back door of the structure.

4. *Primary elevation* – the front or side elevation of a structure.

5. *Secondary elevation* – the rear elevation of a structure.

(k) Facade – the front wall or face of a building

Subsequent subsections will be renumbered.

* * * * *

§ 3. That Section 22:429.3, Subsection 3, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

3. District Regulations: The following regulations shall be applicable to the HD, Historic District, and shall control the use of all properties within such district:

* * *

(b) The erection, moving, demolition, removal, rehabilitation, reconstruction, restoration, or alteration of the exterior of any structure is prohibited unless a Certificate of Appropriateness (COA) is granted by the Historic Commission of the City of Norman, unless such Certificate is not required by Subsection 8.

(c) Changes to rear elevations do require a COA; however, the rear elevation of a historic structure is considered a secondary elevation and is therefore regulated to a lower standard to allow flexibility for additions or other modern day appurtenances.

* * * * *

§ 4. That Section 22:429.3, Subsection 5, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

5. Historic District Commission

(a) Creation. There is hereby created an Historic District Commission of the City of Norman, Oklahoma. The Commission shall be composed of nine members in accordance with the following requirements:

1. Five of the members shall be owners of property in existing historic districts. At least three of these five members shall also reside in historic districts.

2. Two of the members shall be persons with specialized technical expertise in structural engineering, law, real estate, building construction, or similar fields.

3. Two of the members shall be persons with specific professional backgrounds in areas such as history, architecture, planning, landscape architecture, archaeology, or related fields.

4. Provided that all of the above criteria for membership composition are met, remaining Commission appointments may be filled by at-large Norman residents who have some demonstrated knowledge, experience, expertise, or interest in historic preservation.

* * * * *

§ 5. That Section 22:429.3, Subsection 7, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

7. Certificates of Appropriateness.

* * *

(c) Submitted COA Application Materials. When applying for a Certificate of Appropriateness, the applicant shall furnish copies of all detailed site and building plans, elevations, perspectives, material samples, and specifications with sufficient detail to clearly illustrate the applicant's intent. Applicants are encouraged to meet with the Historic Preservation Officer before submitting an application and may also request a meeting with the Historic District Commission before submitting an application in order to get feedback from the Commission on a forthcoming application. Applicants may also consult with the Historic Preservation Officer as needed during the review of the Certificate of Appropriateness (COA) application. Incomplete applications will not be forwarded to the Commission for review.

* * * * *

§ 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance, except, that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day

of_____, 2009.

_____
Mayor

ATTEST:

_____
City Clerk

NOT ADOPTED this _____ day

of_____, 2009.

_____
Mayor

O-0910-12

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 429.3 OF CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO DEFINE THE VISIBILITY OF CHANGES TO HISTORIC STRUCTURES,; TO MODIFY THE MAKEUP OF THE HISTORIC DISTRICT COMMISSION; ADDING DEFINITIONS THERETO; AND PROVIDING FOR THE SEVERABILITY THEREOF.

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**Section 22-429.3. HD, Historic District.**

1. Description and Purpose. The Historic District Ordinance, hereinafter referred to as the "HDO", and its regulations may be applied to property located in any zoning district in accordance with the provisions of this Ordinance. The HDO is intended to be an overlay zoning district and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel.

The City of Norman hereby declares that the historical, architectural, cultural, and aesthetic features of the City represent some of the finest and most valuable resources of the City, and such resources are the embodiment of the heritage of the people of the City of Norman. Therefore, it is hereby declared that the purposes of this Ordinance, to be known as the Historic District Ordinance, shall be a follows:.

* * *

(g) To safeguard the heritage of the City by preserving and regulating historic district structures in such a way that maintains or restores their historic integrity while allowing modern day uses and conveniences for their residents.

* * * * *

§ 2. That Section 22:429.3, Subsection 2, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

2. Definitions. As used in this chapter, unless the context otherwise requires, the following words or phrases have the meaning listed:

* * *

(j) Elevation – an exterior wall of structure

1. *Front elevation* – the façade or face of a structure which is visible and prominent from a public right-or-way and which often has distinguishing architectural features. Structures on corner lots shall be considered to have two front elevations. No structure shall be considered to have more than two front elevations.

2. *Side elevation* – a wall adjacent to the front elevation that is usually visible from a public right-of-way.

3. *Rear elevation* – an elevation parallel to the front façade; the rear elevation usually includes the back door of the structure.

4. *Primary elevation* – the front or side elevation of a structure.

5. *Secondary elevation* – the rear elevation of a structure.

(k) Facade – the front wall or face of a building

Subsequent subsections will be renumbered.

* * * * *

§ 3. That Section 22:429.3, Subsection 3, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

3. District Regulations: The following regulations shall be applicable to the HD, Historic District, and shall control the use of all properties within such district:

* * *

(b) The erection, moving, demolition, removal, rehabilitation, reconstruction, restoration, or alteration of the exterior of any structure is prohibited unless a Certificate of Appropriateness (COA) is granted by the Historic Commission of the City of Norman, unless such Certificate is not required by Subsection 8.

(c) Changes to rear elevations do require a COA; however, the rear elevation of a historic structure is considered a secondary elevation and is therefore regulated to a lower standard to allow flexibility for additions or other modern day appurtenances.

* * * * *

§ 4. That Section 22:429.3, Subsection 5, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

5. Historic District Commission

(a) Creation. There is hereby created an Historic District Commission of the City of Norman, Oklahoma. The Commission shall be composed of nine members in accordance with the following requirements ~~who shall be drawn from each of the following areas~~:

1. Five of the ~~Three~~ members shall be ~~property~~ owners of property ~~who reside~~ in ~~or near proposed or~~ existing historic districts. At least three of these five members shall also reside in historic districts.

2. Two of the ~~Three~~ members shall be persons with specialized technical expertise in structural engineering, law, real estate, building construction, or similar fields.

3. Two of the ~~Three~~ members shall be persons with specific professional backgrounds in areas such as history, architecture, planning, landscape architecture, archaeology, or related fields.

4. Provided that all of the above criteria for membership composition are met, remaining Commission appointments may be filled by at-large Norman residents who have some demonstrated knowledge, experience, expertise, or interest in historic preservation.

* * * * *

§ 5. That Section 22:429.3, Subsection 7, of Chapter 22 of the Code of the City of Norman, Oklahoma, shall be amended to read as follows:

7. Certificates of Appropriateness.

* * *

(c) Submitted COA Application Materials. When applying for a Certificate of Appropriateness, the applicant shall furnish copies of all detailed site and building plans, elevations, perspectives, material samples, and specifications with sufficient detail to clearly illustrate the applicant's intent. ~~In addition, application shall furnish a list of all property owners immediately adjacent to the subject property (available from the Cleveland County Register of Deeds). Incomplete applications will not be forwarded to the Commission for review. Any applicant may request a meeting with the Historic District Commission before submitting an application and may consult with the Historic District Commission during the review of the permit application.~~ Applicants are encouraged to meet with the Historic Preservation Officer before submitting an application and may also request a meeting with the Historic District Commission before submitting an application in order to get feedback from the Commission on a forthcoming

application. Applicants may also consult with the Historic Preservation Officer as needed during the review of the Certificate of Appropriateness (COA) application. Incomplete applications will not be forwarded to the Commission for review.

* * * * *

§ 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance, except, that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day

of_____, 2009.

_____
Mayor

ATTEST:

_____
City Clerk

NOT ADOPTED this _____ day

of _____, 2009.

_____
Mayor

office memorandum

Date: October 30, 2009

To: Chairman Jim Gasaway and Planning Commission members

From: Susan F. Connors, Director, Planning & Community Development

Subject: Consideration Of Ordinance O-0910-12

**Background**

Since May 2009, the Planning & Community Development Committee (PCDC) of the City Council has discussed revisions to Chapter 22:429.3 Historic District of the Zoning Ordinance seeking to better define the visibility of changes to historic structures as regulated by the Historic District Commission (HDC) and to make expectations clearer to property owners. These changes would require revision of two definitions in the HD Section of the Zoning Ordinance and the addition of five terms to the Ordinance.

In addition, the PCDC has recommended Ordinance revisions regarding Commission make-up to require a resident and property owner majority, but also to specify that a minority of the HDC have professional and technical expertise related to historic preservation as required to participate in the Certified Local Government (CLG) Program of the State Historic Preservation Office (SHPO). This requires an amendment to the Historic District Commission section of the Ordinance.

**Historic District Zoning Ordinance**

The PCDC asked the staff to amend the HD Ordinance to better address issues of visibility, commission make-up, and definitions. Working with the PCDC and the HDC, staff developed language to address these issues. The PCDC accepted the proposed Ordinance amendments at their October 9, 2009 meeting and requested that the item be placed on a City Council Conference agenda. Council discussed this item at the October 27, 2009 Conference and requested that it be docketed on a Planning Commission agenda soon. These items are discussed below and the Ordinance changes are attached as Attachment A.

*Visibility*

The Planning & Community Development Committee discussed several approaches to defining the visibility of changes to historic structures, and the need to define primary and secondary facades. The proposed amendments reflect the importance of primary façades. The Committee agreed that visibility of changes to historic structures should be regulated from any public right-of-way, excluding alleys, but that corner properties, because of their increased visibility, would be regarded as having two primary façades. The committee also agreed that rear elevations are the appropriate place for additions, pools, decks or other appurtenances of modern life. Proposed amendments to Chapter 22:429.3 Historic District of the Zoning Ordinance codify language that achieves the following:

- ❑ Defines primary and secondary elevations in historic structures
- ❑ Identifies fronts, sides and rears of historic structures

- ❑ Clarifies that the rear elevation of a historic structure is a secondary elevation, is therefore less important than the primary and will be regulated to a lower standard

This language puts into practice what has been an unwritten policy in Norman's historic preservation program since its inception: front elevations of historic structures are the main focus, side elevations are important, and rear elevations, because they are less visible and therefore less important, can be modified to some degree without compromising the overall historic integrity of the structure.

*Historic District Commission Make-Up*
In a recent survey of historic district property owners, many respondents expressed a desire that a majority of HDC should own property in the historic districts. A number of respondents also indicated that a majority of these property owner-commissioners should also reside in the districts. A majority of respondents also expressed a desire to continue the City's participation in the CLG program administered by the SHPO.

CLG program participation requires a proportional representation of commission members with technical or professional backgrounds in preservation or related disciplines. In Norman's case, that would be four members of the nine-member commission. In order to fulfill both residents' desires and CLG requirements, the proposed amendments state that five members of the HDC shall own property in the historic districts, and at least three of these five shall be residents. Individuals with technical and professional backgrounds will fill the remaining four HDC seats. Lastly, in order to allow the possibility of at-large eligibility, the amendment proposes that if all of the residency and professional/technical requirements are met, remaining seats on the HDC can be filled by individuals with demonstrated knowledge, experience or expertise in historic preservation.

*Definitions*
In order to clearly define the visibility of changes to historic structures as discussed above, Chapter 22:429.3 Historic District of the Zoning Ordinance should include new definitions for elevation and façade, and added definitions of the following terms: front elevation, side elevation, rear elevation, primary elevation and secondary elevation.

**Recommendation**: Staff recommends that Planning Commission recommend adoption of the Ordinance changes to City Council.

# NORMAN PLANNING COMMISSION
# REGULAR SESSION MINUTES

## NOVEMBER 12, 2009

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 12th day of November, 2009. Notice and agenda of the meeting were posted at the Norman Municipal Building twenty-four hours prior to the beginning of the meeting.

Chairman Jim Gasaway called the meeting to order at 6:30 p.m. He introduced Diana Hartley, who was recently appointed to the Planning Commission to take the place of Ed Adwon.

Item No. 1, being:
**ROLL CALL.**

| | |
|---|---|
| MEMBERS PRESENT | Jim Gasaway<br>Diana Hartley<br>Tom Knotts<br>Chris Lewis<br>Curtis McCarty<br>Paul Minnis<br>Roberta Pailes<br>Andy Sherrer<br>Zev Trachtenberg |
| MEMBERS ABSENT | None |

A quorum was present.

| | |
|---|---|
| STAFF MEMBERS PRESENT | Susan Connors, Director, Planning & Community Development<br>Doug Koscinski, Manager, Current Planning Division<br>Ken Danner, Development Coordinator<br>Roné Tromble, Recording Secretary<br>Leah Bunney, Asst. City Attorney<br>Larry Knapp, GIS Analyst<br>Jane Hudson, Planner II<br>Susan Atkinson, Planner I |

* * *

Item No. 8, being:
**ORDINANCE NO. O-0910-12 – AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 429.3 OF CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO DEFINE THE VISIBILITY OF CHANGES TO HISTORIC STRUCTURES, TO MODIFY THE MAKE-UP OF THE HISTORIC DISTRICT COMMISSION, AND ADDING DEFINITIONS THERETO; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**ITEMS SUBMITTED FOR THE RECORD:**
1. Staff Report
2. Annotated Ordinance No. O-0910-12

**INTRODUCTION BY STAFF:**
1. Susan Atkinson, Historic Preservation Officer – We have been working with the Council Planning and Community Development Committee for the past several months to address some concerns that had arisen from property owners in the two historic districts to make sure that the guidelines' intent was a little bit clearer to both property owners, to the Commission, and to staff as well. The issue boiled down to some concerns about visibility, because what historic district commissions tend to regulate is changes to historic structures, so the question of where those changes can be made to retain the greatest degree of historic integrity is of great interest. We've added some language that makes the intent of the HD ordinance a little clearer. One of those issues is regulating historic structures in a way that maintains or restores their historic integrity but still allows the use of modern conveniences and appurtenances for residents. We hope it makes clear that this is not trying to freeze an area of the city in time; it's understanding that historic structures are dynamic, that people live in them, and that people have to be able to accommodate some degree of modern changes. In order to do that, one of the things that was necessary was to get very clear about what elevations we were talking about, so we needed to strengthen our definition of elevation and a definition of the word façade, and then we needed to add definitions for front, side, and rear elevations, and primary and secondary elevations. The primary elevations in a historic structure are the front and the sides, because those have the greatest degree of visibility. The rear elevation is considered a secondary elevation and, because it is less visible, can be modified to some extent and not interrupt the historic integrity; it is regulated to a lower standard because it is less visible. Those definitions are added to the ordinance, and will also be added to the guidelines. There were some concerns about the make-up of the Commission: who was actually eligible to serve on the Historic District Commission. Working with the Planning Committee, the proposal that we came up with is, of the nine-member commission, we are proposing to amend the ordinance to say that five members shall be property owners of property in the two historic districts and, of those five, three shall be residents. We are required by our participation in the Certified Local Government Program, which is a program of the State Historic Preservation Office, to include on the Commission a couple of experts and people who have a background in preservation or in related disciplines or people who have experience with preservation. Previously our ordinance said that we would have three people who were attorneys, realtors, civil engineers, etc., and then three that were

architects, landscape architects, planners, etc. We are proposing to reduce that number to two each, and that does not jeopardize our participation in the CLG program, which provides a small funding stream annually, around $10,000 a year. We are also adding the possibility of at-large representation. We have had, for the entire history of the program, a number of people who do not own property in the two historic districts but who have a great deal of experience with old houses or historic neighborhoods, and there are folks who would like to serve and would bring a great wealth of experience and knowledge and broader perspective to the Commission; their participation is important. So we're adding a fourth category of eligibility that would allow this at-large representation, if we can meet our numbers in some other way. Sometimes we have people who both own property in the historic district and happen to be, for example, a civil engineer. And, last, we wanted to clarify the section of the ordinance dealing with the Certificate of Appropriateness, which is the document that the Commission grants to applicants, encouraging them to meet with staff and even the HDC before they submit an application. This has always been possible and, in fact, happens most of the time that they meet with staff, but I think sometimes pre-applicants have been a little reluctant to ask for Commission time when, in fact, the Commission would love to be able to give people comment that would help them come up with an application that the Commission can approve.

2. Paul Minnis asked whether the Historic District Commission is ultimately advisory to the City Council. Susan Atkinson responded that it is actually a decision-making body. Decisions that are appealed from the Commission are appealed directly to City Council.

3. Zev Trachtenberg asked if there had been any discussion that people who are residents or owners may have competing incentives. On the one hand, presumably, as residents they have some aesthetic or other kind of interest in the historic character. But, on the other hand, as property owners and as people trying to reap the advantages of the appurtenances of modern life might have counter interests that work against the historic character of the homes. Susan Atkinson responded that the notion of competing interests did not enter into the discussion. To some degree, the motivation was to make sure that there was "taxation with representation." What we were attempting to do was strike a balance between vested interests of the neighborhood and of specific property owners and the fact that historic districts benefit the community as a whole, and in some ways they belong to all of us. We have had a long history of great commissioners in our City; we've been very fortunate that way. I have every reason to believe that we will continue to be able to do that. The Commission has a play book that they work by, which is the Historic Preservation Guidelines. If the Commission is doing their job, then they are following the Historic District Guidelines. There is some room for interpretation there, but it is the play book by which they have to make decisions so they can make defensible decisions.

4. Zev Trachtenberg agrees that there is a citywide interest in the preservation of these districts. He asked who is most directly responsible for looking after that public

interest. Susan Atkinson responded that she believes it is the combination of the Code and the dispassionate non-district property owners. It is everyone's duty, staff included, on a case-by-case basis, to look at how changes to historic properties have effects on the surrounding properties and on the district as a whole. That language is repeated throughout the guidelines and in the Secretary of Interior's standards, which is the federal play book and is also adopted in our HD ordinance. I think we have a number of administrative safeguards that are included in the process that I hope allow the Commission and I, as staff, to be good stewards for the community.

5. Paul Minnis asked what the requirements are to be on the Planning Commission, other than alive and a Norman resident. Doug Koscinski indicated they have to be registered voters. Paul Minnis commented that he doesn't have a problem with the make-up of the commission having residents/owners of historic district properties, or the experts. If there are going to be at-large Norman residents, he doesn't see why we're requiring them to have some demonstrated knowledge, expertise, or experience in historic preservation. You don't have to have any connection to medicine to serve on the Hospital Board. Planning Commission membership doesn't require any expertise with city planning. He suggested that any at-large member of the Historic District Commission only be required to be a Norman resident. Susan Connors reported that, at the Planning and Community Development Committee meeting, there was not 100% agreement on the at-large person until the provision was added that they have some demonstrated knowledge and understanding.

6. Curtis McCarty asked why they want to make these changes. Susan Connors explained that they are based on a survey that Carol Dillingham had residents of the two historic districts fill out.

7. Jim Gasaway commented that he is a former member of the Historic District Commission and all of these items have been discussed since the beginning. These same items have come up every year. He believes this ordinance is a good resolution of those issues and it defines some issues that have always been a little gray and open for definition.

8. Andy Sherrer said he agrees with Mr. Minnis' comments to some degree. He's not sure of the purpose of the strict language on the at-large representation. He indicated that he will vote for the ordinance either way, but he would prefer to strike the strict language.

9. Zev Trachtenberg asked what is required by other cities that have historic district commissions. Susan Atkinson responded that she doesn't have explicit knowledge of other cities' membership requirements. She added that serving on the Commission is kind of a thankless job, because it requires a very detailed knowledge of the preservation handbook and requires a lot of field trips to look at things. The people that tend to want to serve on the Commission sort of self-select as people who have some interest. She said "a demonstrated interest" could be a pretty low threshold. Paul

Minnis pointed out that the ordinance doesn't say "demonstrated interest"; it requires "demonstrated knowledge, experience or expertise in historic preservation." Roberta Pailes commented that it would be nice to insert "interest" so it would read: "knowledge, interest, experience or expertise."

Chairman Gasaway asked if anyone in the audience wished to speak on this item. There being none, he turned the discussion to the Planning Commission.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**
*Curtis McCarty moved to recommend adoption of Ordinance No. O-0910-12 to the City Council. Zev Trachtenberg seconded the motion.*

| | |
|---|---|
| YEAS | Jim Gasaway, Diana Hartley, Tom Knotts, Chris Lewis, Curtis McCarty, Paul Minnis, Roberta Pailes, Andy Sherrer, Zev Trachtenberg |
| NAYES | None |
| MEMBERS ABSENT | None |

Recording Secretary Roné Tromble announced that the motion to recommend adoption of Ordinance No. O-0910-12 to the City Council was adopted by a vote of 9-0.

***

CITY COUNCIL
PLANNING AND COMMUNITY DEVELOPMENT
COMMITTEE MINUTES

October 9, 2009

The City Council Planning and Community Development Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 8:00 a.m. in the Conference Room on the 9th day of October, 2009, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

| | |
|---|---|
| PRESENT: | Councilmembers Atkins, Cubberley, Griffith, and Chairman Butler |
| ABSENT: | None |
| OTHERS PRESENT: | Mayor Cindy Rosenthal<br>Ms. Susan Atkinson, Planner I<br>Ms. Karla Chapman, Administrative Technician III<br>Ms. Susan Connors, Director of Planning and Community Development<br>Ms. Kathryn Walker, Assistant City Attorney |

CONTINUED DISCUSSION REGARDING PROPOSED AMENDMENTS TO THE HISTORIC DISTRICT ORDINANCE.

Ms. Susan Connors, Planning and Community Development Director, said she and Ms. Susan Atkinson, Planner I, spent a great deal of time discussing the Committee's recommendations from the September 25, 2009, Planning and Community Development Committee (PCDC) meeting. She said if the Ordinance was amended as proposed, specifically, with no Certificate of Appropriateness (COA) on the rear elevation, Staff could possible receive applications for massive rear additions to historic structures. Ms. Connors felt this was not the PCDC's intent and that is why Staff is now recommending adding "changes to rear elevations, unless they have significant architectural features, will not require a Certificate of Appropriateness," to Section 429.3 *District Regulations*. Ms. Atkinson said the Committee agreed verbiage that clearly conveys that the front and sides of historic structures were the most important to preserve and that the rear was where property owners could have flexibility. She said Staff realized eliminating all regulation of the rear of historic structures would contradict the Historic Preservation Guidelines adopted in August 2009. In particular, the proposed language would leave unregulated, the size and scale of additions to the rear. She said at present the Preservation Guidelines do not regulate the rear of structures as separate from the rest of the building. Ms. Atkinson said several approaches to defining the visibility of changes were discussed and whether definitions of primary and secondary facades were needed. Ms. Atkinson said the Committee supported Staff's proposal amending the *District Regulations* section of the HD Ordinance to reflect the importance of the primary facade and that visibility of changes should be regulated from any public right-of-way, excluding alleys. It was also agreed that corner properties would be regarded as having two primary facades, because of their increased visibility. Ms. Atkinson said Staff is trying to achieve a codification of the language that provides the following:

- Defines primary and secondary elevations in historic structures
- Identifies front, side and rear of historic structures
- Clarifies the rear is a secondary elevation and is therefore less important than the primary and will be regulated to a lower standard

Ms. Atkinson said this language puts into practice what has been an unwritten policy in Norman's preservation program since its inception: front elevations of historic structures are sacred, side elevations are important, and rear elevations, because they are less visible and therefore less important, can be modified to some degree without compromising the overall historic integrity. She said codifying this policy will make the HDC's task of project review more straightforward as well as making expectations more clear for the public.

Ms. Atkinson said at the October 5, 2009, Historic District Commission (HDC) meeting, Staff presented proposed HD Ordinance amendments that would better define the visibility of historic structures and redefine eligibility to serve on the HDC. She said a strong majority of the HDC recommended no changes to the proposed language

regarding how changes to the rear elevations of historic structures would be regulated and the ordinance would read as follows:

(c) Changes to rear elevations do require a COA; however the rear elevation of a historic structure is considered a secondary elevation and is therefore regulated to a lower standard to allow flexibility for additions or other modern day appurtenances.

She said the Commission discussed the proposed amendment concerning Commission eligibility and how it could impact the Preservation program as well as the City's ability to find eligible members to serve on the HDC. She said the Commission felt if it was the PCDC's intent to limit HDC eligibility to owners of property in HD, the proposed language contained an error and the Commission suggested changing the amendment to read as follows:

(a) Five members shall be owners of property in existing historic districts.

Ms. Atkinson said one HD Commissioner said if the Ordinance language was amended as proposed, she would no longer be eligible to serve because she is a resident "near" an existing HD. Ms. Atkinson said a simple majority expressed concern that requiring five members of the Commission be property owners sends the wrong message about the value of preservation to the community as a whole, while a minority expressed concern that the five members be both property owners and residents.

Mayor Rosenthal said while she agrees some may have initially been appointed because they live "near" a historic district, but may also meet the expertise requirement as well and she would hate to lose some of the flexibility when considering reappointments. Councilmember Cubberley said the requirements say a member must meet only one of the criteria, not two; therefore one member could be eligible to serve with more than one of the three requirements. Councilmember Butler said adding one additional sentence stating if one member meets all three qualifications, there is an opportunity to have an "at large" member and Mayor Rosenthal agreed. Councilmember Cubberley asked if the technical expertise and professional background requirement could be combined into one category and Ms. Connors said the Certified Local Government (CLG) Program requires having both. Councilmember Cubberley said he understood recruiting is a challenge, but felt the HDC needed to have a majority of residents, and if the residents fit one or more of the requirements, then an "at large" member spot could be filled. Mayor Rosenthal said the "or near" qualification, as the ordinance now reads, was used in case there was some interest to grow a HD to nearby neighborhoods. She said the HD Commissioner who expressed concern lives outside the HD, could now be reappointed because she has technical expertise because of her service on the HDC.

Councilmember Butler felt the new verbiage for the remaining amendments are what the Committee desires for the HDC and the Committee agreed. The Committee suggested Staff bring the proposed amendments forward to a City Council Conference or Study Session, whichever allows the quickest scheduling, so Staff can brief the Councilmembers not present today.

Councilmember Butler said Staff will bring discussion of reconstituting the Porter Corridor Steering Committee to the October 23, 2009, PCDC meeting. Mayor Rosenthal asked Staff if they envisioned the Overlay District going to the Stakeholder Committee, this Committee, or to Council first and Ms. Connors felt it would go to the Stakeholder Committee, to gain input first. Councilmember Cubberley said the Stakeholder Committee has already given their opinion and Ms. Connors said Staff will need to settle some of the concerns raised when the Porter Avenue Corridor Study was accepted. Councilmember Atkins asked if the Overlay District will establish the "hard line" or was Staff considering two separate topics. Councilmember Cubberley said it would be appropriate for this Committee to begin looking at design criteria, levels of control, etc., with the professionals. He said a basic understanding and compromise needs to be worked out before moving forward, because if disagreements are not settled they will keep reappearing. Mayor Rosenthal felt the acceptance of the "hard line" as well as future projected land uses would be added to the Norman 2025 Land Use Plan, which need to be resolved relatively quick and the Committee agreed. She said she would like to see a Land Use Plan Amendment based on recommendations with Staff modifications in reference to the line, so that there is some clarity for everyone in terms of status of this map, this line, and the 2025 Plan. Councilmember Butler requested Staff provide the concerns raised by the

property owners along with maps and Mayor Rosenthal felt a work session would also be beneficial. Councilmember Butler requested Staff draft a charge statement for the Stakeholder Committee.

Councilmember Butler said the Committee will look at language for commercial lighting on November 13, 2009, and a future discussion topic will be Environmental Control Advisory Board's (ECAB) water conservation recommendation, specifically having residents use odd/even days to conserve water. Councilmember Cubberley said most residents understood water usage and would comply and he felt Staff was doing a great job of getting information to the public. Mayor Rosenthal asked Staff to write a letter to ECAB thanking and crediting them for their hard work on water conservation and suggest ECAB prepare an annual water report for Norman and highlight their recommendations rather than making them regulatory.

Items submitted for record

1. Memorandum dated October 1, 2009, from Ms. Susan Owen Atkinson, Historic Preservation Officer, to Planning and Community Development Committee
2. Proposed Revisions to Historic District Zoning Ordinance
3. Memorandum dated October 7, 2009, from Ms. Susan Owen Atkinson, Historic Preservation Officer, to Planning and Community Development Committee

The meeting adjourned at 8:36 a.m.

_____ _____

Attest: City Clerk Mayor

CITY COUNCIL CONFERENCE MINUTES
October 27, 2009

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in conference at 5:20 p.m. in the Municipal Building Conference Room on the 27th day of October, 2009, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

| | |
|---|---|
| PRESENT: | Councilmembers Atkins, Butler, Dillingham, Griffith, Quinn, Mayor Pro Tem Cubberley |
| ABSENT: | Councilmembers Ezzell, Kovach, Mayor Rosenthal |

DISCUSSION REGARDING CHANGE ORDER NO. ONE TO CONTRACT NO. K-0910-104 WITH SUN CONSTRUCTION SERVICES, INC., INCREASING THE CONTRACT AMOUNT BY $446.50 FOR MUNICIPAL BUILDING C RENOVATION PROJECT.

Mr. Patrick Copeland, Manager, Development Services Division, said the Municipal Building C Renovation Project includes the removal and replacement of the entire roof; replacement of the heating and air conditioning (HVAC) equipment; replacement of the carpet; and remodeling of the Human Resources Department. Bids were received on September 29, 2009, and the lowest bid was received from Sun Construction in the amount of $888,226. Subsequent to the bid opening, staff identified five areas where it would be best if the proposed flooring (carpet) was changed to a different material. The changes resulted in an increase of $446.50 and Change Order No. One provides for the proposed changes in flooring specifications.

The change order will be considered on Council's regular agenda later this evening.

Items submitted for the record

1. Memorandum dated October 13, 2009, from Patrick Copeland, AICP, CFM, Manager, Development Services Division, to Honorable Mayor and Councilmembers
2. Change Order No. One to Contract No. K-0910-104

DISCUSSION REGARDING PROPOSED AMENDMENTS TO THE HISTORIC DISTRICT ORDINANCE AND HISTORIC PRESERVATION GUIDELINES.

Ms. Susan Atkinson, Historic Preservation Officer, highlighted the proposed amendments to the Historic District Ordinance. She said the proposed amendments are the result of a review process through the Council Planning and Community Development Committee (PCDC) and a survey conducted by Councilmember Dillingham in the two historic districts. She said the amendments as proposed by the Committee would better define the visibility of changes to historic structures regulated by the Historic District Commission and make expectations clearer to property owners.

Ms. Atkinson said the Committee agreed visibility of changes to historic structures should be regulated from any public right-of-way, excluding alleys, but corner properties would be regarded as having two primary facades due to increased visibility. The proposed amendments define primary and secondary elevations in historic structures; identifies fronts, sides, and the rear of historic districts; and clarifies the rear elevation of a historic structure is a secondary elevation, less important than the primary, and will be regulated to a lower standard. She said the proposed language puts into practice what has been an unwritten policy in Norman's Historic Preservation Program since its inception.

The second proposed amendment is related to the structure of the Historic District Commission. Ms. Atkinson said a recent survey of historic district property owners indicated a majority of the Historic District Commissioners should own property in the historic districts and a majority of property owners/commissioners should also live within one of the City's two historic districts. A majority of the respondents also expressed a desire to continue the City's participation in the Certified Local Government (CLG) Program. The CLG

Program participation requires a proportional representation of commission members with professional background in preservation or related disciplines. In order to meet both obligations the PCDC recommended the ordinance be amended to state five members of the Commission shall own property in the historic districts and at least three of the five shall be residents. Additionally, in order to allow for the possibility of an at-large member, the PCDC proposed if all residency and professional/technical requirements are met, remaining seats on the Historic District Commission could be filled by at-large Norman residents who have some demonstrated knowledge, experience, or expertise in historic preservation.

Ms. Atkinson provided an overview of proposed amendments to the Historic Preservation Guidelines. She said a guideline on chain link fences was previously omitted from the Historic Preservation Guidelines which states chain link fencing may be used in the rear yards of interior lots. Other amendments revise definitions for elevation and facades.

Ms. Atkinson said with Council's concurrence the proposed amendments will be forwarded to the Planning Commission before being placed on Council's agenda for formal consideration. It was the consensus of Council to move forward with the amendments.

Items submitted for the record

1. Memorandum dated October 20, 2009, from Susan Owen Atkinson, Historic Preservation Officer, to Honorable Mayor and Members of the City Council with Attachment A, Proposed Ordinance No. O-0910-12, and Attachment B, proposed amendments to Historic Preservation Guidelines

DISCUSSION REGARDING THE OUTDOOR WARNING SYSTEM REPLACEMENT PROJECT AND ACTIVATION POLICY.

Fire Chief James Fullingim said the purpose of this discussion is to provide an information briefing on the City's Outdoor Warning System and Activation Policy. He said an outdoor warning system normally consists of sirens designed to alert citizens that are outside of approaching or existing hazardous conditions, which require immediate protective actions in order to save lives and property. He said they are not intended to be heard inside a home or building. He provided an overview of Norman's 37 outdoor warning sirens. He said Norman has 21 Federal signals ranging in age from 35-40 years, all of which are no longer in production. He said parts are salvaged from units that are no longer functioning to keep the system going. There are 17 American signals ranging in age from six to 12 years old, three of which are owned by the University of Oklahoma. He said the system is activated manually and is a one way signal without computer control or geographical activation zone capabilities. He said the signals are designed to be heard within a two mile radius, but topography and trees will shorten the length in which signals may be heard. Fifty percent of the sirens have exceeded their life span and most are obsolete and staff can no longer purchase replacement parts for them. He said 80% of the sirens activate on any given attempt; however, those that activate and function when tested may not activate when tested the next time. The current system does not cover the entire City limits and are more densely located in the urban area where there is higher population.

Chief Fullingim provided an overview of the current Outdoor Warning System Activation Policy and said currently, the Emergency Management Director makes the decision to activate the sirens based upon notification of approaching severe weather from the National Weather Service or storm watch personnel. If communications with the Emergency Management Director or Emergency Management Coordinator cannot be established, Fire Department Shift Commanders are authorized to sound the warning sirens. As previously discussed when the outdoor warning sirens are activated, the entire system has to be activated. It does not have the capabilities of being activated by zones.

Chief Fullingim said staff began a policy review process and received input from all stakeholder areas; i.e., National Weather Service, local professionals, University of Oklahoma, emergency management partners, and

24. ITEM: RESOLUTION NO. R-0910-81: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING THE HISTORIC PRESERVATION GUIDELINES USED BY THE NORMAN HISTORIC DISTRICT COMMISSION IN REVIEWING REQUESTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC DISTRICTS.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. Copies of the resolution and proposed changes to the Historic Preservation Guidelines are included in the Agenda Book.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-81.

ACTION TAKEN: _____

# Resolution

**R-0910-81**

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING THE HISTORIC PRESERVATION GUIDELINES USED BY THE NORMAN HISTORIC DISTRICT COMMISSION IN REVIEWING REQUESTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC DISTRICTS.

§ 1. WHEREAS, City Council, in its meeting of August 12, 2008, adopted Resolution No. R-0809-25 declaring the adoption of Historic Preservation Guidelines to be used by the Norman Historic District Commission in reviewing proposed changes to structures in the historic districts; and

§ 2. WHEREAS, the Council of the City of Norman determined that these guidelines would remain in effect until the City Council amends them at a future date; and

§ 3. WHEREAS, the Historic District Commission was authorized to recommend to City Council any future changes to the Historic Preservation Guidelines as the Commission deems necessary to render fair and consistent decisions on requests for Certificates of Appropriateness in the City's historic districts; and

§ 4. WHEREAS, the Historic District Commission discovered that a guideline on chain link fences and a diagram defining front, side, and rear yards were omitted from the Historic Preservation Guidelines; and

§ 5. WHEREAS, revisions to Chapter 22:429.3 of the Zoning Ordinance are being made in Ordinance No. O-0910-12 amending the definitions for elevation and façade and adding definitions for front elevation, side elevation, rear elevation, secondary elevation, and primary elevation; and

§ 6. WHEREAS, City Council reviewed these amendments in a City Council Conference on October 27, 2009, and Planning Commission, on November 12, 2009, recommended adoption of Ordinance No. O-0910-12 outlining the amendments.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA,

§ 7. That the Council of the City of Norman approves the above-described amendments to the Historic Preservation Guidelines attached hereto as Exhibit "A".

RECREATION EDUCATION RESEARCH HEALTH INDUSTRY
THE CITY OF NORMAN OKLAHOMA
LAKE THUNDERBIRD

§ 8. That the Council of the City of Norman has determined that these guidelines, as amended, shall remain in effect until the Council of the City of Norman amends them at a future date.

§ 9. That the Historic District Commission shall be authorized to correct any scrivener's errors that may be discovered without a review by Council of the City of Norman.

§ 10. That the Historic District Commission of the City of Norman is directed to use the Historic Preservation Guidelines, as amended, in reviewing all applications for Certificates of Appropriateness.

PASSED AND ADOPTED this 22nd day of December, 2009.

_____
Mayor

ATTEST:

_____
City Clerk

## 2.5 Guidelines for Fences and Masonry Walls

.1 ***Replacing Conforming Fences.*** *If an existing, conforming type of fence or wall is being replaced with one that is the same in material, height, placement, and style, a Certificate of Appropriateness is not required.*

.2 ***Preserve Original Materials.*** *Retain and preserve exterior wall materials that contribute to the overall historic character of a building.*

.3 ***Replacing Non-Conforming Fences.*** *Existing fences that are non-conforming as to height, material, style and placement shall not be replaced in kind. Replacement fences shall be conforming as to height, materials, and placement.*

.4 ***Front Yard Fences.*** *Front yard fences of up to 4 feet in height may be approved by Administrative Bypass. Front yard fences taller than 4 feet are prohibited by the Norman Zoning Ordinance. See Glossary for definition of front yard.*

.5 ***Side Yard Fences.*** *Side yard fences of up to 4 feet in height may be approved by Administrative Bypass. Side yard fences taller than 4 feet require a COA. Side yard fences taller than 6 feet are prohibited. See Glossary for definition of side yard.*

.6 ***Rear Yard Fences.*** *Rear yard fences of up to 6 feet in height may be approved by Administrative Bypass. Rear yard fences taller than 6 feet require a COA. Rear yard fences taller than 8 feet are prohibited by the Norman Zoning Ordinance. See Glossary for definition of rear yard.*

.7 ***Fences on Corner Properties Adjacent to Alleys.*** *Fences on corner properties with alley access shall be located very carefully to maximize sight lines and minimize conflicts between alley traffic, pedestrians, and on-street traffic.*

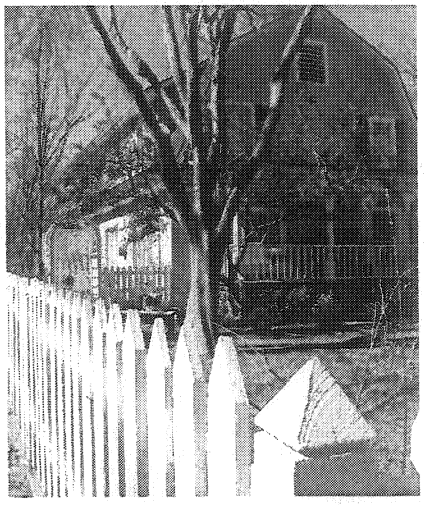
.8 ***Fence and Wall Materials.*** *Fences or walls shall be constructed of wood, brick, stone, iron or cast or forged metal, stucco, or a combination of these materials, which are consistent with period styles in Norman's historic districts. Stone or brick used in walls shall be compatible in size, scale, and style to that used elsewhere in the historic district, or typical of residential structures of this type, age, and location. No vinyl, cinder block, concrete block, or corrugated metal, may be used for fences or walls in historic districts.*

.9 ***Colors and Finishes.*** *Although paint color is not regulated by the Commission, it is strongly recommended that wood fences be stained or painted in colors and finishes appropriate to the style and period of the property and the district or left unfinished. No decorative murals shall be applied to fence or wall surfaces visible from the street.*

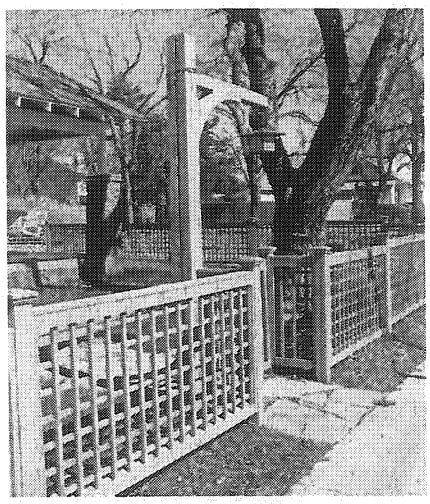
.10 ***Finished Side Out.*** *Fences or walls facing the street shall be constructed with the finished side out.*

**Fences By Administrative Bypass**

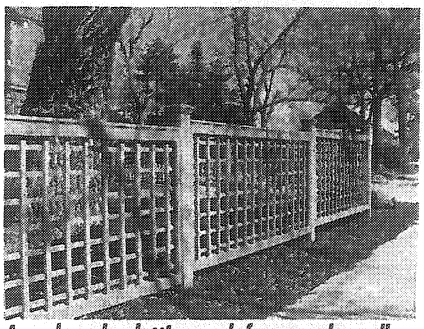
Original historic fences and walls are important character-defining features and should be preserved and maintained as much as possible. Many common styles of privacy fence can be approved by Administrative Bypass. See page 32 for a palette of fence types.



***A front yard fence under 36 inches tall creates definition and separation but still allows the beauty of the house to shine.***



***A dooryard gate creates a nice entrance to the front yard in a modern adaptation of the traditional wood fence.***



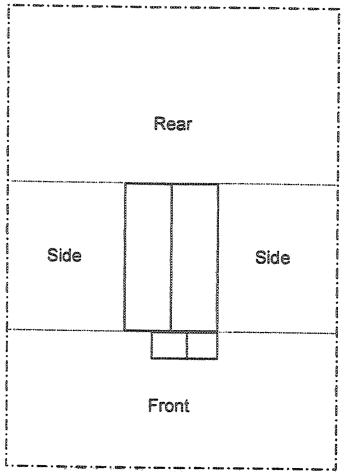
**A modern-day lattice work fence works well with bungalows.**

.11 ***Setback and Adjacent Property Tie-In.*** *A fence 4 feet or less in height shall be set back a minimum of 1 foot from the inner edge of a public sidewalk. A fence over 4 feet in height shall be set back a minimum of 2 feet. Where no sidewalk exists, fences shall be set back a minimum of 6 feet from the back of curb or edge of pavement. If a fence exists on an adjacent property, the corner side yard fence should tie into the existing fence. In no case shall a fence extend beyond the property line.*

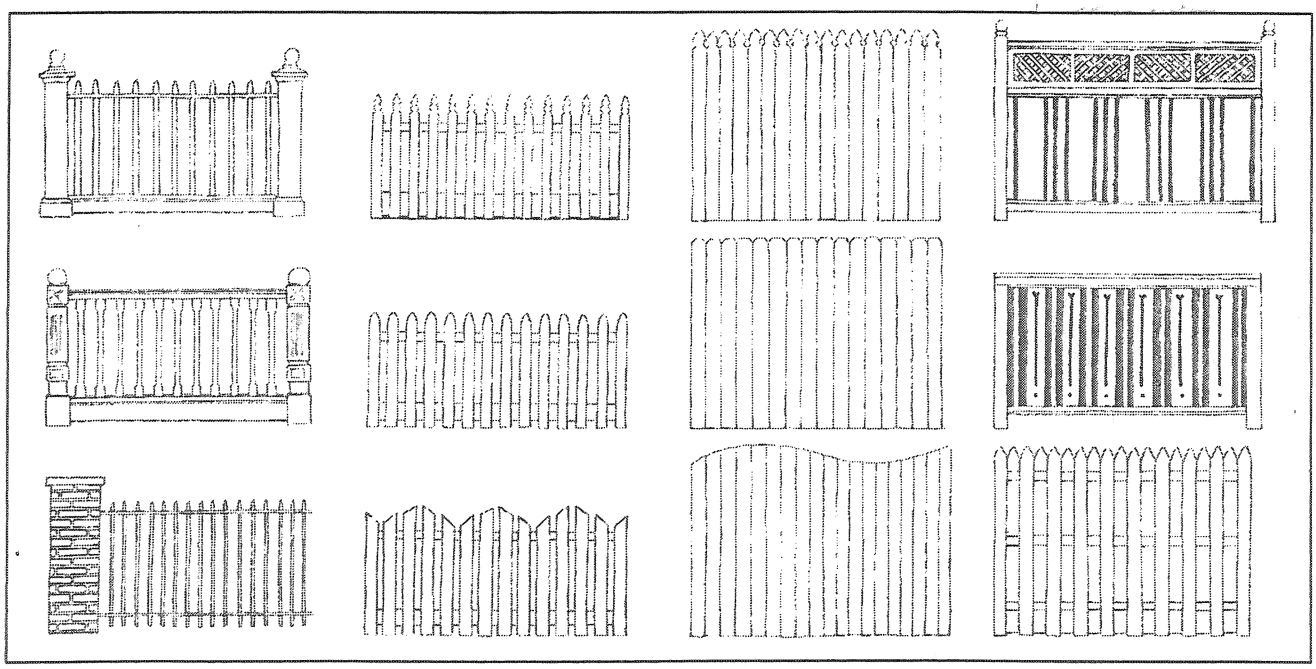
.12 *Chain Link Fences.* Chain link fencing may be used in the rear yards of interior lots. Front facing fence panels may not be chain link but shall be other approved fence materials. Chain link fencing shall be limited to 6 feet in height.

**Few stone walls remain in Norman's historic districts. Those that exist have special significance.**

Insert:
FRONT/SIDE/REAR YARD
DIAGRAM




## PRIVACY FENCE PALETTE FOR NORMAN HISTORIC DISTRICTS



**These styles of wood privacy fence can be approved by Administrative Bypass and do not require Commission review.**

***Conservation** — the sustained use and appearance of a resource essentially in its existing state.

**Contributing resource** — a historic building or site that retains the essential architectural integrity of its original design or condition.

**Coping** — the cap or the top course of a masonry wall.

**Corner block** — a block placed at a corner of the casing around a wooden door or window frame, usually treated ornamentally.

**Corner board** — one of the narrow vertical boards at the corner of a traditional wooden frame building, into which the clapboards butt.

**Cornice** — the top part of an entablature, usually molded and projecting; originally intended to carry the eaves of a roof beyond the outer surface.

**Cupola** — a small vault on top of a roof; sometimes spherical in shape, sometimes square with a mansard or conical roof.

**Damaged or diseased tree** — A tree that is damaged in such a way as to create a hazard (e.g. has a large wound) or has been pruned in a way which permanently alters its natural attributes (e.g. topped). A seriously diseased tree is one with obvious signs of internal decay (e.g. cavity with fruiting bodies present), is infested with a disease for which their is no remedy (e.g. Pine Wilt, Dutch Elm Disease), or suffers from a decline disorder.

**Deck** — an uncovered porch, usually at the rear of a building; popular in modern residential design.

**Demolition** — the destruction or removal of any historic structure from its original site.

**Dentil** — a repetitive cubical element at the base of a classical cornice. Dentils resemble teeth.

**Detached structure** — a building that is not structurally connected to the primary building on the site.

**Development pattern** — the configuration of residential lots, the location and orientation of structures on the lots, and the relationship of lots and buildings to the street.

**Dormer** — a structure containing a window (or windows) that projects through a pitched roof.

**Double-hung window** — a window with two sashes that open and close by sliding up and down in a cased frame.

**Downspout** — a vertical pipe, often of sheet metal, used to conduct water from a roof drain or gutter to the ground or a cistern.

**Eave** — the part of a sloping roof that projects beyond a wall.

SUBSTITUTE LANGUAGE: "Elevation—an exterior wall of a structure."

~~**Elevation** — a drawing showing the vertical elements of a building, either exterior or interior, as a direct projection to a vertical plane.~~

SUBSTITUTE LANGUAGE: "Façade—the front wall of a building."

~~**Facade** — the exterior face of a building.~~

**Fanlight** — an arched overdoor light whose form and tracery suggest an open fan.

**Fascia** — a flat board with a vertical face that forms the trim along the edge of a flat roof, or along the horizontal, or eave side of a pitched roof. The rain gutter is often mounted on it.

**Feature** — a structural or decorative element that contributes to the overall character of that building, e.g. walls, foundations, roofs, chimneys, steps, piers, columns, lintels, and sills.

**Fenestration** — the windows and doors and the pattern of their openings in a building.

**Finial** — a formal ornament at the top of a canopy, gable, pinnacle, streetlight, etc.

**Flashing** — a thin impervious material placed in construction to prevent water penetration, to provide water drainage, or both, especially between a roof and a wall.

**Foundation** — the supporting portion of a structure below the first-floor construction, or below grade, including footings.

**French window** — a long window reaching to floor level and opening in two leaves like a pair of doors.

**Gable** — the vertical triangular piece of a wall at the end of a ridged roof, from the level of the eaves to the summit.

**Gambrel roof** — a gable roof more or less symmetrical, having four inclined surfaces, the pair meeting at the ridge having a shallower pitch.

**Guidelines** — An important part of the *Norman Historic Preservation Handbook.* The guidelines are a set of rules administered by the Norman Historic District Commission intended to assist owners of historic buildings in Norman's historic districts maintain, preserve, protect, and enhance the architectural quality of their property.

**Gutter** — a shallow channel of metal or wood set immediately below or built in along the eaves of a building to catch and carry off rainwater.

**Hardscape** — any material which is impervious to water and not covered by roof.

**Header** — a brick laid across the thickness of a wall to bond together different wythes of a wall; the exposed end of a brick.

**Hipped roof** — a roof without gables, each of whose sides, generally four, lies in a single plane and joins the others at an apex or ridge.

**Historic district** — a geographically definable area with a concentration or linkage of significant sites, buildings, structures, or monuments; or, an individual structure, building, site or monument which contributes to the cultural, social, political, or architectural heritage of the City of Norman.

TO BE INSERTED Front elevation—the façade or face of a structure which is visible and prominent from a public right-of-way, excluding the alley, and which often has distinguishing architectural features. Structures on corner lots shall be considered to have two front elevations. No structure shall be considered to have more than two front elevations.

***Preservation** — the adaptive use, conservation, protection, reconstruction, rehabilitation, or stabilization of buildings, districts, monuments, sites, or structures significant to the heritage of the people of Norman. The following terms further define types of preservation activities:

- **Adaptive Use** shall mean the restrained alteration of a historical or architectural resource to accommodate uses for which the resource was not originally constructed, but in such a way so as to maintain the general historical and architectural character.
- **Conservation** shall mean the sustained use and appearance of a resource essentially in its existing state.
- **Protection** shall mean the security of a resource as it exists through the establishment of the mechanisms of this section.
- **Reconstruction** shall mean the act or process of duplicating the original structure, building form and materials by means of new construction based on documentation of the historic condition.
- **Rehabilitation** shall mean the act or process of making a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historic, cultural or architectural values.
- **Stabilization** the process of applying methods designated to halt deterioration and to establish the structural stability of an unsafe or deteriorated resource while maintaining the essential form as it presently exists without noticeably changing the exterior appearance of the resource.

**Preservation Guidelines** — see definition for guidelines.

**Prevailing height** — the most commonly occurring height on a block face on which a project is proposed.

**Prevailing lot coverage** — the most commonly occurring lot coverage on the block and across the street.

TO BE INSERTED Primary elevation—the front or side elevation of a structure.

**Rehabilitation** — the act or the process of making possible a compatible use for a property through repair, alterations, and additions while preserving the portions or the features that convey the property's historical, cultural, or architectural values.

TO BE INSERTED Rear elevation—an elevation parallel to the front façade; the rear elevation usually includes the back door of the structure.

**Relocation** — the movement or repositioning of a primary or accessory structure on its original site or from one site to another.

**Repointing** — raking out deteriorated mortar joints and filling into them with a surface mortar to repair the joint.

**Restoration** — the act or the process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by removing features or changes from other periods in its history and reconstructing missing features from the restoration period.

**Riser** — the vertical portion of a stair, connecting two steps.

**Roofing Tile** — a tile for roofing, usually of burnt clay; available in many configurations and types including plain, single-lap, and interlocking.

**Sash** — the moving part of a window.

**Scale** — the proportion of parts of a building, structure, or monument to one another, to surrounding structures, and to the human figure.

TO BE INSERTED Secondary elevation—the rear elevation of a structure.

**Secretary of the Interior Standards for Rehabilitation of Historic Buildings** — a set of standards intended to assist the long-term preservation of a historic property through the preservation of historic building materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and interior of the buildings. "Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while still preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

**Shingle** — a roofing unit of wood, asphalt, slate, tile, or other material cut to stock lengths, widths, and thicknesses; used as an exterior covering on roofs and applied in an overlapping fashion.

TO BE INSERTED Side elevation—a wall adjacent to the front elevation that is usually visible from a public right-of-way.

**Sidelight** — a narrow window area beside an outside door, generally seen in Greek Revival style.

**Sheet metal** — a flat, rolled-metal product, rectangular in cross-section and form; when used as roofing material, usually terne- or zinc-plated.

***Significant characteristics** — those characteristics which are important to or expressive of the historic or architectural quality and integrity of the resources and its setting and which include, but are not limited to building material, detail, height, proportion, rhythm, scale, setback, setting, shape, street accessories, and workmanship.

- **Building mass** — describes the relationship of a building's height to its width and depth.
- **Building materials** — the physical characteristics which create the aesthetic and structural appearance of the resource, including but not limited to a consideration of the texture and style of the components and their combinations, such as brick, stone, shingle, wood, concrete, or stucco.
- **Detail** — architectural aspects which, due to particular treatment, draw attention to certain parts or features of a structure.
- **Height** — the vertical dimension of a given structure, building or monument.
- **Proportion** — the relative physical sizes within and between buildings and building components.
- **Rhythm** — a discernible pattern of shapes including, but not limited to, windows, doors, projections, and heights, within a building, structure or monument, or a group of same.
- **Scale** — the proportion of parts of a building, structure, or monument to one another and to the human figure.
- **Setting** — the surrounding structures, monuments, and landscaping which establish the visual, aesthetic, or auditory qualities of the historic or architectural resources.

25. ITEM: ORDINANCE NO. O-0910-18: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 4-1901 AND SECTION 4-1902 OF CHAPTER 4 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR HISTORIC DISTRICT COMMISSION MEMBER APPOINTMENTS AND PROVIDING FOR DUTIES OF COMMISSION MEMBERS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

INFORMATION: City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-18 upon First Reading by title. Copies of Ordinance No. O-0910-18 and legislatively notated copy of Ordinance No. O-0910-18 are included in the Agenda Book.

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-18 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-18 upon Final Reading as a whole.

ACTION TAKEN: _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 4-1901 AND SECTION 4-1902 OF CHAPTER 4 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR HISTORIC DISTRICT COMMISSION MEMBER APPOINTMENTS AND PROVIDING FOR DUTIES OF COMMISSION MEMBERS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Section 4-1901 of Chapter 4 of the Code of the City of Norman shall be amended to read as follows:

Sec. 4-1901. Created; composition of members.

There is hereby created the Historic District Commission of the City of Norman, Oklahoma. Such Historic District Commission shall be composed of the following persons. The Historic District Commission shall be composed of nine (9) members in accordance with the following requirements:

(1) Five of the members shall be owners of property in existing historic districts. At least three of these five members shall also reside in historic districts.

(2) Two of the members shall be persons with specialized technical expertise in engineering, law, real estate, building construction, or other similar fields;

(3) Two of the members shall be persons with specific professional backgrounds in areas such as history, architecture, landscape architecture, planning, archeology or related fields.

(4) Provided that all of the above criteria for membership composition are met, remaining Commission appointments may be filled by at-large Norman residents who have some demonstrated knowledge, experience or expertise in historic preservation.

* * * * *

§ 2. That Section 4-1902 of Chapter 4 of the Code of the City of Norman shall be amended to read as follows:

Sec. 4-1902. Duties.

Unless otherwise specified in this article, the duties of the Historic District Commission shall be as follows:

* * * * *

(12) Review, revise, or cause to be reviewed or revised the Preservation Guidelines (formerly known as the Design Guidelines) that govern the Historic District Commission's review of applications for Certificates of Appropriateness.

* * * * *

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day

of _____, 2009.

_____

Mayor

NOT ADOPTED this _____ day

of _____, 2009.

_____

Mayor

ATTEST:

_____

City Clerk

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 4-1901 AND SECTION 4-1902 OF CHAPTER 4 OF THE CODE OF THE CITY OF NORMAN PROVIDING FOR HISTORIC DISTRICT COMMISSION MEMBER APPOINTMENTS AND PROVIDING FOR DUTIES OF COMMISSION MEMBERS; AND PROVIDING FOR THE SEVERABILITY THEREOF.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 1. That Section 4-1901 of Chapter 4 of the Code of the City of Norman shall be amended to read as follows:

Sec. 4-1901. Created; composition of members.

There is hereby created the Historic District Commission of the City of Norman, Oklahoma. Such Historic District Commission shall be composed of the following persons. The Historic District Commission shall be composed of nine (9) members~~, who shall be drawn from each of the following areas:~~ in accordance with the following requirements:

(1) Five of the ~~Three (3)~~ members shall be ~~property~~ owners of property ~~who reside~~ in ~~or near proposed or~~ existing historic districts~~;~~. At least three of these five members shall also reside in historic districts.

(2) Two of the ~~Three (3)~~ members shall be persons with specialized technical expertise in engineering, law, real estate, building construction, or other similar fields;

(3) Two of the ~~Three (3)~~ members shall be persons with specific professional backgrounds in areas such as history, architecture, landscape architecture, planning, archeology or related fields.

(4) Provided that all of the above criteria for membership composition are met, remaining Commission appointments may be filled by at-large Norman residents who have some demonstrated knowledge, experience or expertise in historic preservation.

* * * * *

§ 2. That Section 4-1902 of Chapter 4 of the Code of the City of Norman shall be amended to read as follows:

Sec. 4-1902. Duties.

Unless otherwise specified in this article, the duties of the Historic District Commission shall be as follows:

* * * * *

(12) Review, revise, or cause to be reviewed or revised the Preservation Guidelines (formerly known as the Design Guidelines) that govern the Historic District Commission's review of applications for Certificates of Appropriateness.

* * * * *

§ 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, except that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this _____ day

of _____, 2009.

_____

Mayor

ATTEST:

_____

City Clerk

NOT ADOPTED this _____ day

of _____, 2009.

_____

Mayor

26. ITEM: ORDINANCE NO. O-0910-16: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING THE CALLING AND HOLDING OF A SPECIAL ELECTION IN THE CITY OF NORMAN, STATE OF OKLAHOMA (THE"CITY"), ON THE 2ND DAY OF MARCH, 2010, FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED QUALIFIED ELECTORS OF SAID CITY, THE QUESTION OF THE ISSUANCE OF THE BONDS OF SAID CITY IN AN AMOUNT NOT TO EXCEED THE SUM OF TWENTY ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($21,250,000) TO BE ISSUED IN SERIES TO PROVIDE FUNDS FOR THE PURPOSES OF (I) RECONSTRUCTING, REPAIRING, IMPROVING, AND REHABILITATING EXISTING STREETS, ROADS, AND INTERSECTIONS IN THE CITY (INCLUDING LIGHTING, SIDEWALKS/BIKE PATHS, LANDSCAPING, RELATED DRAINAGE IMPROVEMENTS, DRIVEWAY RECONSTRUCTION, AND OTHER RELATED IMPROVEMENTS), AND (II) IMPROVING THE CITY OUTDOOR SIREN WARNING SYSTEM BY ACQUIRING NEW WARNING SIRENS AND CONTROL STATION HARDWARE AND SOFTWARE, BY ACQUIRING LAND FOR WARNING SIRENS, AND BY MODIFYING AND RELOCATING CERTAIN OF THE EXISTING WARNING SIRENS, ALL TO BE OWNED EXCLUSIVELY BY THE CITY; AND LEVYING AND COLLECTING AN ANNUAL TAX, IN ADDITION TO ALL OTHER TAXES, UPON ALL THE TAXABLE PROPERTY IN SAID CITY FOR THE PAYMENT OF THE INTEREST AND PRINCIPAL ON SAID BONDS.

INFORMATION: City Council, in its meeting of December 8, 2009, Introduced and adopted Ordinance No. O-0910-16 upon First Reading by title. Copies of an advisory memorandum, Ordinance No. O-0910-16, Special Election Proclamation and Notice of Election, and pertinent excerpts from City Council Transportation and Study Session minutes are included in the Agenda Book.

ACTION NEEDED: 1. Motion to adopt or reject Ordinance No. O-0910-16 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: 2. Motion to adopt or reject Ordinance No. O-0910-16 upon Final Reading as a whole.

ACTION TAKEN: _____

office memorandum

**Date:** December 2, 2009

**To:** Honorable Mayor and City Council Members

**From:** Anthony Francisco, Director of Finance A. Francisco

**Subject:** Agenda Items – Ordinance O-0910-16 Calling For a Special Election for the Issuance of Series 2010 General Obligation Bonds

BACKGROUND: On January 25, 2005, the City Council adopted Ordinance O-0405-34, calling for an election for General Obligation bonded indebtedness to pay for various public improvements. Among these improvements were street resurfacing projects throughout the City, to be repaid over a five-year period from the time of their issuance.

DISCUSSION: Discussion has been had at several public City Council study sessions and Council Finance Committee meetings of proposals for the continuation of the five-year street resurfacing program. Further discussion was had of referring a proposition to the voters of Norman for the issuance of general obligation bonds to pay for improvement to the City's outdoor warning system.

At the November 17, 2009 Council study session, final direction was given for the referendum to be forwarded to the voters for a continuation of the five-year street improvement program and for the outdoor warning system. The final direction was for an approximately $19 million proposal for the resurfacing and/or reconstruction of rural, asphalt and concrete roads throughout the City, and for an approximately $2,250,000 proposal for the expansion, replacement and renovation of the City's outdoor siren warning system. Each of the proposed bond issues would be repaid over a five-year final maturity. The attached Ordinance gives detailed information on the streets to be improved and the components of the proposed outdoor warning system.

RECOMMENDATION: It is recommended that the Ordinance and resolution be approved.

Reviewed by: Steve Lewis, City Manager SL
Jeff Bryant, City Attorney JB

Ordinance No. 0-0910-16

PURSUANT TO THE LEGAL NOTICE AS IS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT INCLUDING THE POSTING OF NOTICE AND AGENDA AS IS REQUIRED BY THE TERMS THEREOF, THE MAYOR AND THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA (THE "CITY") MET IN REGULAR SESSION AT THE MUNICIPAL BUILDING COUNCIL CHAMBERS, 201 WEST GRAY, IN NORMAN, OKLAHOMA, ON THE 22ND DAY OF DECEMBER, 2009, AT 6:30 O'CLOCK P.M.

PRESENT:

ABSENT:

Notice of the Schedule of Regular Meetings of the governing body of the municipality for calendar year 2009, having been given in writing to the Clerk of the municipality, and public notice of this meeting having been posted in prominent public view at the Municipal Building Council Chambers, 201 W. Gray, Norman, Oklahoma, at least twenty-four (24) hours prior to this meeting, excluding Saturdays, Sundays and State designated legal holidays, all in compliance with the Oklahoma Open Meeting Act.

(OTHER PROCEEDINGS)

THEREUPON, the Mayor introduced an Ordinance, which was read in full by the Clerk and considered by sections, and upon motion by Councilmember _____, seconded by Councilmember _____, said Ordinance was adopted by the following vote:

YEAS:

NAYS:

Said Ordinance was thereupon signed by the Mayor, attested by the Clerk, sealed with the seal of said municipality, and is as follows:

ORDINANCE NO. 0-0910-16

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AUTHORIZING THE CALLING AND HOLDING OF A SPECIAL ELECTION IN THE CITY OF NORMAN, STATE OF OKLAHOMA (THE "CITY"), ON THE 2ND DAY OF MARCH, 2010, FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED QUALIFIED ELECTORS OF SAID CITY THE QUESTION OF THE ISSUANCE OF THE BONDS OF SAID CITY IN AN AMOUNT NOT TO EXCEED THE SUM OF TWENTY ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($21,250,000) TO BE ISSUED IN SERIES TO PROVIDE FUNDS FOR THE PURPOSES OF (I) RECONSTRUCTING, REPAIRING, IMPROVING, AND REHABILITATING EXISTING STREETS, ROADS, AND INTERSECTIONS IN THE CITY (INCLUDING LIGHTING, SIDEWALKS/BIKEPATHS, LANDSCAPING, RELATED DRAINAGE IMPROVEMENTS, DRIVEWAY RECONSTRUCTION, AND OTHER RELATED IMPROVEMENTS), AND (II) IMPROVING THE CITY OUTDOOR SIREN WARNING SYSTEM BY ACQUIRING NEW WARNING SIRENS AND CONTROL STATION HARDWARE AND SOFTWARE, BY ACQUIRING LAND FOR WARNING SIRENS, AND BY MODIFYING AND RELOCATING CERTAIN OF THE EXISTING WARNING SIRENS, ALL TO BE OWNED EXCLUSIVELY BY THE CITY; AND LEVYING AND COLLECTING AN ANNUAL TAX, IN ADDITION TO ALL OTHER TAXES, UPON ALL THE TAXABLE PROPERTY IN SAID CITY FOR THE PAYMENT OF THE INTEREST AND PRINCIPAL ON SAID BONDS.

WHEREAS, it is deemed advisable by The City of Norman, State of Oklahoma (the "City") to (i) reconstruct, repair, improve, and rehabilitate existing streets, roads, and intersections in the City (including lighting, sidewalks/bikepaths, landscaping, related drainage improvements, driveway reconstruction, and other related improvements) and (ii) improve the City outdoor warning siren system by acquiring new warning sirens and control station hardware and software, by acquiring land for warning sirens, and by modifying and relocating certain of the existing warning sirens, all to be owned exclusively by the City; and

WHEREAS, the estimated amount necessary for such purposes is Twenty One Million Two Hundred Fifty Thousand Dollars ($21,250,000); and

WHEREAS, there are no funds in the treasury for such purposes, and power is granted said City by Section 27, Article 10, of the Oklahoma Constitution and laws of the State of Oklahoma, to issue bonds to provide funds for such purposes, provided the same is authorized by the registered qualified voters thereof, voting at an election held for such purpose.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

Section 1. Propositions. That the Mayor of the City, or in her absence or incapacity, the duly qualified Mayor Pro Tempore, be and hereby is authorized and directed to call a special election to be held in the City on the 2nd day of March, 2010, for the purpose of submitting to the registered qualified voters of the City, for their approval or rejection, the following propositions:

PROPOSITION NO. 1

"SHALL THE CITY OF NORMAN, STATE OF OKLAHOMA, INCUR AN INDEBTEDNESS BY ISSUING ITS BONDS IN THE SUM OF NINETEEN MILLION DOLLARS ($19,000,000) TO PROVIDE FUNDS FOR THE PURPOSE OF RECONSTRUCTING, REPAIRING, IMPROVING, AND REHABILITATING EXISTING STREETS, ROADS, AND INTERSECTIONS IN THE CITY OF NORMAN, OKLAHOMA (INCLUDING LIGHTING, SIDEWALKS/BIKEPATHS, LANDSCAPING, RELATED DRAINAGE IMPROVEMENTS, DRIVEWAY RECONSTRUCTION, AND OTHER RELATED IMPROVEMENTS); AND LEVY AND COLLECT AN ANNUAL TAX, IN ADDITION TO ALL OTHER TAXES, UPON ALL THE TAXABLE PROPERTY IN SAID CITY SUFFICIENT TO PAY THE INTEREST ON SAID BONDS AS IT FALLS DUE, AND ALSO TO CONSTITUTE A SINKING FUND FOR THE PAYMENT OF THE PRINCIPAL THEREOF WHEN DUE, SAID BONDS TO BEAR INTEREST AT NOT TO EXCEED THE RATE OF TEN PERCENTUM (10%) PER ANNUM, PAYABLE SEMI-ANNUALLY AND TO BECOME DUE SERIALLY WITHIN FIVE (5) YEARS FROM THEIR DATE?"

PROPOSITION NO. 2

"SHALL THE CITY OF NORMAN, STATE OF OKLAHOMA, INCUR AN INDEBTEDNESS BY ISSUING ITS BONDS IN THE SUM OF TWO MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($2,250,000) TO PROVIDE FUNDS FOR THE PURPOSE OF IMPROVING THE CITY OUTDOOR WARNING SIREN SYSTEM IN THE CITY OF NORMAN, OKLAHOMA, BY ACQUIRING NEW WARNING SIRENS AND CONTROL STATION HARDWARE AND SOFTWARE, BY ACQUIRING LAND FOR WARNING SIRENS, AND BY MODIFYING AND RELOCATING CERTAIN OF THE EXISTING WARNING SIRENS, ALL TO BE OWNED EXCLUSIVELY BY SAID CITY; AND LEVY AND COLLECT AN ANNUAL TAX, IN ADDITION TO ALL OTHER TAXES, UPON ALL THE TAXABLE PROPERTY IN SAID CITY SUFFICIENT TO PAY THE INTEREST ON SAID BONDS AS IT FALLS DUE, AND ALSO TO CONSTITUTE A SINKING FUND FOR THE PAYMENT OF THE PRINCIPAL THEREOF WHEN DUE, SAID BONDS TO BEAR INTEREST AT NOT TO EXCEED THE RATE OF TEN PERCENTUM (10%) PER ANNUM, PAYABLE SEMI-ANNUALLY AND TO BECOME DUE SERIALLY WITHIN FIVE (5) YEARS FROM THEIR DATE?"

Section 2. Description of Projects and Use of Proceeds.

**(Proposition No. 1)**
**Street and Road Project**

The rural road improvements, the urban asphalt pavement rehabilitation, the urban concrete pavement rehabilitation, and the roadway reconstruction, all represent improvements to roads and streets in The City of Norman, Oklahoma, including but not limited to those roads and streets listed below. The costs of the projects are based on engineering estimates, with engineering to be completed as the street and road bonds are issued and with the improvements to be made as needed. The specific projects for which at least seventy percent (70%) of the proceeds of the aforesaid street and road bonds shall be expended and the dollar amount of each such project shall be as follows:

Rural Road Improvements

Project will improve rural roads. Roadside ditches will be cleaned out and shaped to provide better drainage. Subgrade will be strengthened with crushed rock and compacted to provide support to the pavement and an asphalt surface treatment will be applied. The following rural roads are to be improved:

| STREET NAME | LIMITS |
|---|---|
| **24th Ave NE** | **Rock Creek Rd to Franklin Rd** |
| **84th Ave SE** | **Post Oak Rd to Etowah Rd** |
| **Post Oak Rd** | **84th Ave SE to 96th Ave SE** |
| **144th Ave NE** | **Indian Hills Rd to Stella Rd** |
| **Deer Creek Rd** | **132nd Ave NE to 144th Ave NE** |
| **132nd Ave SE** | **Cedar Lane to Etowah Rd** |
| **48th Ave SE** | **Highway #9 to Post Oak Rd** |
| **Indian Hills Rd** | **48th Ave NE to 72nd Ave NE** |
| **156th Ave NE** | **Tecumseh Rd to Bethel Rd** |
| **48th Ave NE** | **Franklin Rd to Indian Hills Rd** |
| **Indian Hills Rd** | **36th Ave NE to 48th Ave NE** |
| **Imhoff Rd** | **156th Ave SE to 168th Ave SE** |
| **Lindsey St** | **144th Ave SE to east end** |
| **168th Ave SE** | **Imhoff Rd to south city limits** |
| **Cedar Lane** | **120th Ave SE to 132nd Ave SE** |
| **156th Ave NE** | **Highway #9 to Tecumseh Rd** |
| **72nd Ave NE** | **Franklin Rd to Bethel Rd** |
| **Cedar Lane** | **36th Ave SE to 48th Ave SE** |
| **Cedar Lane** | **60th Ave SE to 72nd Ave SE** |
| **Bethel Rd** | **96th Ave NE to .5 E of 108th NE** |

| STREET NAME | LIMITS |
|---|---|
| **Tecumseh Rd** | **144th Ave NE to 156th Ave NE** |
| **168th Ave NE** | **Highway #9 to Alameda St** |
| **Alameda St** | **168th Ave SE to 180th Ave SE** |
| **72nd Ave SE** | **Cedar Lane to Etowah Rd** |
| **Indian Hills Rd** | **.5 mi w of 144th NE to 156th NE** |
| **Bethel Rd** | **144th Ave NE to 156th Ave NE** |
| **84th Ave SE** | **Highway #9 to Post Oak Rd** |
| **Franklin Rd** | **156th Ave NE to 180th Ave NE** |

$2,250,000

Urban Asphalt Pavement Rehabilitation

Project will improve urban streets. Streets will be deep patched, the existing asphalt wearing surface will be milled off, cracks will be sealed, and a new wearing surface added. The following streets are to be improved:

| STREET NAME | LIMITS |
|---|---|
| **Dover St** | **Vicksburg - Bull Run St** |
| **Bull Run St** | **Chamblee Dr - Chalmette Dr** |
| **Chalmette Dr** | **Bull Run St - Chamblee Dr** |
| **Chamblee Dr** | **Chalmette Dr - East 1700 Block** |
| **Atchison Dr** | **U.S. Hwy 77 - Topeka Dr** |
| **Topeka Dr** | **U.S. Hwy 77 - Atchison Dr** |
| **Stoney Brook Dr** | **North Interstate - Bismarc Lane** |
| **Regal Run Dr** | **Stoney Brook - Swan Hollow** |
| **Swan Hollow Dr** | **Regal Run - Stoney Brook** |
| **Duvall Dr** | **Stoney Brook - Dove Hollow Lane** |
| **Dove Hollow Lane** | **Stoney Brook - Duvall Dr** |
| **Dove Crossing Dr** | **North Interstate - Bismarc** |
| **Bismarc Lane** | **Stoney Brook - Dove Crossing Dr** |
| **Ridgeline Dr** | **48th Ave NW - North 3700 Block** |
| **Ridgeline Cir** | **Ridgeline Dr - West 4100 Block** |
| **Ridgeway Pl** | **Timberidge Dr - West 4700 Block** |
| **Timberidge Cir** | **Timberidge Dr - West 4600 Block** |
| **Rolling Meadow Pl** | **Ridgeline Dr - West 4200 Block** |
| **Brookline Pl** | **Ridgeline Dr - West 4200 Block** |
| **Timberidge Dr** | **Tecumseh Rd - Ridgeline Dr** |
| **Hillview Dr** | **Tecumseh Rd - North 3300 Block** |

| STREET NAME | LIMITS |
|---|---|
| 48th Ave West | Main St - Willow Grove |
| Vicksburg Ave | Alameda St - Beaumont Dr |
| Aiken Ct | Vicksburg Ave - East 1800 Block |
| Shelby Ct | East 1800 Block - East 1900 Block |
| Wilmington Ct | Vicksburg Ave - East 2000 Block |
| Yorktown Cir | Vicksburg Ave - East 1700 Block |
| Vicksburg Cir | Vicksburg Ave - South 300 Block |
| National Dr | Tecumseh Rd - U.S. Hwy 77 |
| Hidden Lake Dr | 24th Ave NW - West 2200 Block |
| Lake Front Cir | 24th Ave NW - West 2200 Block |
| Boardwalk | 24th Ave NW - Interstate |
| 26th Ave NW | Tee - Westport; 600 Block |
| Wall St | Boardwalk - Tee Dr |
| Blue Lake Dr | Indian Hills Rd - 12th Ave NW |
| Spring Mill Rd | Indian Hills Rd - Blue Lake Dr |
| Sleepy Hollow Rd | Blue Lake Dr - Willow Brook Lane |
| Willow Brook Lane | 12th Ave N.W. - Indian Hills Rd |
| Shady Lane | Blue Lake Dr - Spring Mill Rd |
| Comanche St | Porter Ave - Cook Ave |
| Eufaula St | Porter Ave - Carter Ave |
| Symmes St | Porter Ave - Reed Ave |
| Apache St | Porter Ave - Reed Ave |
| Linn St | Carter Ave - East 500 Block |
| Ponca Ave | Main St - Alameda St |
| Findlay Ave | Main St - Alameda St |
| Stewart Ave | Main St - Carter Ave |
| Cockrel Ave | Main St - Eufaula St |
| Carter Ave | Main St - Alameda St |
| Aniol Ave | Comanche St - So 100 Block |
| Reed Ave | Main St - Symmes St |
| David Ct | 23rd Ave NE - East 2300 Block |
| Jackson Dr | 24th Ave NE - Crest Dr |
| Paul Ct | 23rd Ave NE - East 2300 Block |
| Teresa Dr | Jackson Dr - 22nd Ave NE |
| Helm Ct | 23rd Ave NE - East 2300 Block |
| Jazzman Dr | 23rd Ave NE - Kara Ct |
| Newman St | 23rd Ave NE - 24th Ave NE |
| Summer Dr | Kara Ct - 22nd Ave NE |

| STREET NAME | LIMITS |
|---|---|
| Carolyn Ct | 23rd Ave NE - East 2300 Block |
| Morren Dr | Cindy Ave - Crest Pl |
| Barb Dr/Ct | Cindy Ave - Morren Cir |
| Vanessa Dr | 22nd Ave NE - Crest Pl |
| 23rd Ave NE | Carolyn Ct - Jackson Dr |
| 22nd Ave NE | Alex Plaza - Jackson Dr |
| Cindy Ave | Jackson Dr - Vanessa Dr |
| Crestland Dr | Morren Dr - North 200 Block |
| Crest Ct | Vanessa Dr - Jackson Dr |
| Crest Pl | Vanessa Dr - Jackson Dr |
| Kansas St | Flood Ave - University Blvd |
| Daws St | Webster Ave - Flood Ave |
| Boyd St | Berry Rd - Wylie Rd |
| Boyd St | Berry Rd - Flood Ave |
| Barbour Ave | Nebraska St - Dakota St |
| Edinburg Dr | Coalbrook Dr - Ridge Bluff Dr |
| Rockingham Dr | Ridge Bluff Dr - Coalbrook Dr |
| Waterfront Dr | Coalbrook Dr - Coalbrook Dr |
| Bluff Ct | Rockingham Dr - North 300 Block |
| Pine Cove Ct | Rockingham Dr - North 300 Block |
| Devonshire Dr | Lochwood Dr - Sandstone |
| Sandstone Dr | Lochwood Dr - Devonshire Dr |
| Sandstone Cir | Sandstone Dr - East 2900 Block |
| Lochwood Dr | Alameda - North 200 Block |
| Coalbrook Dr | Devonshire Dr - Coach Ct |

$8,250,000

Urban Concrete Pavement Rehabilitation

Project will improve urban Portland cement concrete streets and will include removal and replacement of broken, damaged, and displaced concrete panels on the urban street system, as well as joint and crack sealing. The following streets are to be improved:

| STREET NAME | LIMITS |
|---|---|
| **Rambling Oaks Dr** | **36th Ave West - Tall Oaks Cir** |
| **Starbrook Ct** | **Rambling Oaks Dr - North 500 Block** |
| **Bonita Cir** | **Rambling Oaks Dr - North 500 Block** |
| **Cheswick Ct** | **Rambling Oaks Dr - North 500 Block** |
| **Bent Oak Cir** | **Rambling Oaks Dr - 3100 Block** |
| **Tall Oaks Cir** | **Rambling Oaks Dr - 3100 Block** |
| **Bridgeport Rd** | **36th Ave NW - Brownwood Lane** |
| **Nicole Cir** | **Castlerock Rd - West 3800 Block** |
| **Stonehurst St** | **Castlerock Rd - Drawbridge Lane** |
| **Drawbridge Lane** | **Castlerock Rd - Stonehurst St** |
| **Knights Bridge St** | **Castlerock Rd - Wood Castle St** |
| **Wood Castle St** | **Castlerock Rd - Knights Bridge St** |
| **Buckingham Dr** | **36th Ave NW - Bridgeport Rd** |
| **Castlerock Rd** | **Tecumseh Rd - Brownwood Lane** |
| **Nicole Pl** | **Castlerock Rd - North 4100 Block** |
| **Wellington Pl** | **Buckingham Dr - North 3900 Block** |
| **Brownwood Lane** | **Bridgeport Rd - 36th Ave N.W.** |
| **Worthington Dr** | **Bridgeport Rd - Buckingham Dr** |
| **Pleasant Grove** | **Bridgeport Rd - Buckingham Dr** |
| **Milford Pl** | **Bridgeport Rd - North 4000 Block** |
| **Moor Dr** | **Nicole Pl - Castlerock Rd** |
| **Brunswick Lane** | **Brownwood Lane - West 3900 Block** |
| **Brookhaven Blvd** | **Robinson St - North to Danfield Lane** |
| **Braden Dr** | **Bellwood Dr - Glenbrook Dr** |
| **Pembroke Dr** | **Burlington Dr - Barwick Dr** |
| **Barwick Dr** | **Brookhaven Blvd - Pembroke Dr** |
| **Devon Ct** | **N 1700 Block - Barwick Dr** |
| **Warwick Ct** | **South to Brookhaven Blvd** |
| **Waverly Ct** | **South to Brookhaven Blvd** |
| **Bellwood Dr** | **Bristol Dr - Braden Dr** |
| **Glenbrook Dr** | **Brookhaven Blvd - Braden Dr** |

| STREET NAME | LIMITS |
|---|---|
| Burlington Dr | Brookhaven Blvd - 36th Ave NW |
| Windover Dr | Barwick Dr - Pembroke Dr |
| Barwick Ct | Barwick Dr - Pembroke Dr |
| Danfield Dr | Northridge Rd - Danfield Lane |
| Danfield Lane | Brookhaven Blvd - Danfield Dr |
| Evesham Ct | Danfield Dr - West 3900 Block |
| Stoneleigh Pl | Danfield Dr - West 3900 Block |
| Calais Ct | Danfield Dr - West 3700 Block |
| Wyndam Pl | Danfield Dr - West 3800 Block |
| Hidden Hill Rd | Winding Ridge Rd - 36th Ave NW |
| Windermere Dr | Hidden Hill Rd - North 1900 Block |
| Banbury Ct | Hidden Hill Rd - North 1900 Block |
| Alderbrook St | Hidden Hill Rd - North 1900 Block |
| Guilford Ct | Hidden Hill Rd - North 1900 Block |
| Abbotsford Lane | Guilford Lane - Guilford Lane |
| Rosebrook | Brookhaven Blvd - North 1900 Block |
| Wyckham Pl | Brookhaven Blvd - North 2100 Block |
| Northhampton Dr | Brookhaven Blvd - Grandview Ave |
| Northhampton Ct | Grandview Ave - West 4200 Block |
| Grandview Ave | Pebblecreek Rd - North 1900 Block |
| Hillside Dr | Grandview Ave - West 4300 Block |
| Pebblecreek Rd | Grandview Ave - West 4100 Block |
| Brookfield Dr | Trophy Dr - Grandview Ave |
| Trophy Dr | Brookfield Dr - Brookfield Dr |
| Bristol Dr | Bellwood Cir - Brookhaven Blvd |
| Burlington Pl | Brookhaven Blvd - South 1300 Block |
| Bingham Pl | Brookhaven Blvd - South 1300 Block |
| Brookdale Dr | Robinson Street - North to Brookhaven Blvd |
| Stratford Lane | Brookdale Dr - West 3900 Block |
| Coventry Lane | Brookdale Dr - West 3900 Block |
| Briarcrest Dr | Broad Acres Dr - East to Brookdale Dr |
| Waverly Dr | Warwick Dr East to Brookhaven Blvd |
| Warwick Dr | Waverly Dr East to Brookhaven Blvd |
| Oxford Way | Winding Ridge Rd East to Brookhaven Blvd |
| Northridge Rd | Winding Ridge Rd East to Danfield Dr |
| Charing Cross Ct | Brookhaven Blvd - North 2200 Block |
| Valley Ridge Rd | Briarcrest Dr North to Hidden Hill Rd |
| Valley Vista | Valley Ridge Rd - West 4200 Block |
| Brookview | Valley Ridge Rd - West 4200 Block |

| STREET NAME | LIMITS |
|---|---|
| Balmoral Ct | Winding Ridge - West 4400 Block |
| Saint Andrews Ct | Winding Ridge - West 4400 Block |
| Winding Ridge Rd | Briarcrest Dr - Hidden Hill Rd |
| Cedar Hill Rd | Northridge Rd - Hidden Hill Rd |
| Winding Ridge Cir | Winding Ridge Rd - West 4400 Block |
| Green View Cir | Winding Ridge Rd - West 4400 Block |
| Broad Acres Dr | Robinson Street - Northridge Rd |
| Beckett Ct | Broad Acres Dr - West 4500 Block |
| Briarcrest Cir | Briarcrest Dr - North 1300 Block |
| Alexander Ct | Broad Acres Dr - West 4400 Block |
| Greenfield Cir | Broad Acres Dr - West 4500 Block |
| Polo Ridge Cir | Broad Acres Dr - West 4500 Block |
| Chukkar Ct | Northridge Rd - W 4500 Block |
| Boyd St | Classen Blvd - 12th Ave East |
| Main St | Park Dr - 48th Ave West |
| 36th Ave West | Main St - Willowbend Rd |
| Whippoorwill | Oakhurst Ave - Elmhurst Dr |
| Allenhurst St | Oakhurst Ave - Amhurst Ave |
| Oakhurst Cir | Oakhurst Ave - E 1900 Block |
| Elmhurst Dr | Whippoorwill Dr - Amhurst Ave |
| Amhurst Ave | Allenhurst St - South 1400 Block |
| Ridgewood Dr | Oakhurst Ave - Oakcliff Rd |
| Lakehurst Dr | Oakhurst Ave - Oakcliff Rd |
| Oakcliff Rd | Lakehurst Ave - Burnt Oak Dr |
| Oakcrest Ave | Oakhurst Ave - Elmhurst Dr |
| Rollingstone Dr | Oakhurst Ave - South 1600 Block |
| Rollingstone Cir | Oakhurst Ave - West 1900 Block |
| Twisted Oak Dr | Oakhurst Ave - East 1800 Block |
| Twisted Oak Cir | Twisted Oak Dr - South 2000 Block |
| Flood Ave | Main St - Gray St |
| 26th Ave N.W. | Hemphill Dr - North 600 Block |
| Hemphill Dr | 24th Ave N.W. - 26th Ave N.W. |
| Fairway Ct | 24th Ave N.W. - Fairway Dr |
| Comanche St | Porter Ave - Peters Ave |
| Comanche St | Lahoma Ave - Chautauqua |
| Pickard Ave | Timberdell Rd - Elmwood Dr |
| Pickard Ave | Imhoff Rd - Lakewood Dr |
| Green Hills Dr/Ct | Kingsbury Dr - West 3900 Block |

| STREET NAME | LIMITS |
|---|---|
| Morain Ct | Cherry Creek Dr - West 4000 Block |
| Preston Ct | Cherry Creek Dr - West 3900 Block |
| Knob Hill Cir | Cherry Creek Dr - South 200 Block |
| Knob Hill Ct | Cherry Creek Dr - West 3900 Block |
| Pine Tree Cir | Cherry Creek Dr - West 3900 Block |
| Beechwood Dr | Cherry Creek Dr - Kingsbury Dr |
| Durango Cir | Cherry Creek Dr - West 3900 Block |
| Silverton Cir | Cherry Creek Dr - West 4100 Block |
| Orchard Lane | Cherry Creek Dr - Alpine Dr |
| Hughes Cir | Cherry Creek Dr - West 4100 Block |
| Western View Dr | Cherry Creek Dr - 36th Ave S.W. |
| Morrison Ct | Stone Well Dr/Cr - E 3900 Block |
| Morrison Cir | Stone Well Dr - E 4100 Block |
| Kingsbury Dr | Beechwood Dr - Green Hills Dr |
| Cherry Creek Dr | Main St - Western View Dr |
| Stone Well Dr | South 300 Block - South 500 Block |
| Pine Tree Lane | Cherry Creek Dr - Green Hills Dr |
| Alpine Cir | Orchard Lane - South 500 Block |
| Boulder Ct | South 300 Block - South 500 Block |
| Garland Ct | South 300 Block - South 500 Block |
| Trinidad Ct | Midland Dr - Midland Dr |
| Midland Dr | Trinidad Dr - Trinidad Dr |
| Creekdale Dr | Main St - North 200 Block |
| Quail Run Cir | Creekdale Dr - West 3800 Block |
| Belhaven Cir | Creekdale Dr - West 3800 Block |
| Lynnbrook Cir | Creekdale Dr - West 3800 Block |
| Brooks St | 24th Ave S.W. - McGee Dr |
| Garrison Dr | Boyd St - Melrose Dr |
| Hal Muldrow Dr | Main St - Melrose Dr |
| Melrose Dr | Hal Muldrow Dr - Rosedale Dr |
| Melrose Ct | Hal Muldrow Dr - West 2100 Block |
| Sherry Ave | Main St - Melrose Dr |
| Mercedes Dr | Main St - Melrose Dr |
| Thompson Dr | Main St - Melrose Dr |
| Collier Dr | Main St - Melrose Dr |
| Jansing | Thompson Dr - Garrison Dr |
| Garrison Dr | Melrose Dr - Jansing |
| Sunset Dr | Gatewood - Sherry Ave |
| Ann Arbor Dr | Sherry - Berry Rd |

| STREET NAME | LIMITS |
|---|---|
| Melrose Dr | Sherry - Berry Rd |
| Huntington Way | Rosedale Dr - Berry Rd |
| Camden Way | Garrison Dr - Berry Rd |
| Westlawn Dr | Wylie Rd - Berry Rd |
| Windsor Way | Wylie Rd - Berry Rd |
| Westchester Ave | Sunset - Main St |
| Rosedale Dr | Melrose Dr - Boyd St |
| Lenox Dr | McGee Dr - Rosedale Dr |
| McGee Dr | Boyd St - Lenox Dr |
| Leslie Lane | Berry Rd - Cruce St |
| Cruce St | Berry Rd - McGee Dr |
| Caddell Lane | Berry Rd - McGee Dr |
| Brooks St | Berry Rd - Wylie Rd |
| Avondale Dr | Berry Rd - McGee Dr |
| Oakwood Dr | McGee Dr - Lindale Dr |
| Lindale Ave | Wylie Rd - Avondale Dr |
| Lancaster Cir | McGee Dr - West 1600 Block |
| Greenbriar Dr | Berry Rd - Smoking Oak Rd |
| Greenbriar Ct | Berry Rd - West 1200 Block |
| Cherry Laurel Dr | Berry Rd - Cypress Ave |
| Hawthorne Ct | Hollywood Ave - West 1600 Block |
| Spruce Dr | Cypress Ave - Linden Ave |
| Smoking Oak Ct | Smoking Oak Rd - West 1700 Block |
| Smoking Oak Pl | Smoking Oak Rd - West 1700 Block |
| Chestnut Lane | Smoking Oak Rd - Hollywood Ave |
| Locust St | Cypress Ave - Hollywood Ave |
| Sycamore St | Cypress Ave - Acacia Ct |
| Holly Cir | Hollywood Ave - West 1600 Block |
| Magnolia St | Berry Rd - West 1500 Block |
| Smoking Oak Rd | McGee Dr - South 2600 Block |
| Hollywood Ave | Westbrooke Ter - Holly Cir |
| Cypress Ave | Greenbriar Dr - Magnolia St |
| Boxwood Ave | Sycamore - Spruce Dr |
| Linden Ave | Sycamore - Spruce Dr |
| Acacia Ct | Magnolia - South 2500 Block |
| Poplar Lane | Imhoff Rd - Magnolia St |
| Aspen Lane | Poplar Lane - Magnolia St |
| Aspen Cir | Aspen Lane - South 2700 Block |

$4,500,000

Road Reconstruction

Project will completely reconstruct urban streets and will include removal of existing pavement, curb and/or gutter, stabilization of subgrade, construction of new curb and/or gutter and driveway approaches, full depth paving, and drainage improvements, if required. The following streets are to be improved:

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| **Hayes St** | **Flood Ave - James Garner Ave** |
| **Mosier St** | **Flood Ave - James Garner Ave** |
| **Himes St** | **Flood Ave - James Garner Ave** |
| **Johnson St** | **Flood Ave - James Garner Ave** |
| **Iowa St** | **Berry Rd - Barbour Ave** |
| **Mosier St** | **Cockrel Ave - Carter Ave** |
| **Nebraska St** | **University Blvd - Flood Ave** |
| **Iowa St** | **Berry Rd - Pickard Ave** |
| **Iowa St** | **Flood Ave - University Blvd** |
| **Dakota St** | **Berry Rd - University Blvd** |

$4,000,000

Total Street and Road Projects $19,000,000

**(Proposition No. 2)**
**Outdoor Warning Siren Project**

The specific projects for which at least seventy percent (70%) of the proceeds of the outdoor warning siren bonds shall be expended and the dollar amounts of each such project shall be as follows:

Outdoor Warning Siren Project

Project will consist of improving The City of Norman, Oklahoma outdoor warning siren system made up of the following components:

| | |
|---|---|
| Acquisition costs of new warning sirens | $1,740,000 |
| Land acquisition | $100,000 |
| Control station hardware and software | $55,500 |
| Modification and relocation of existing sirens | $170,000 |
| Contingency | $184,500 |
| Total Outdoor Warning Siren Project | $2,250,000 |

Section 3. That such call for said election shall be by proclamation, signed by the Mayor or Mayor Pro Tempore and attested by the City Clerk, setting forth the propositions to be voted upon, a statement regarding the specific projects for which the proceeds of each of the aforesaid Bonds shall be expended and the dollar amount to be expended on such projects; that the ballots shall set forth the propositions to be voted upon substantially as set out in Section 1 hereof; and that the returns of said election shall be made to and canvassed by the Cleveland County Election Board.

Section 4. That the number and location of the polling places and the persons who shall conduct the election shall be the same as the regular polling places and persons prescribed and selected by the Cleveland County Election Board, for elections in The City of Norman, Oklahoma.

Section 5. That the Special Election Proclamation and Notice of even date, a copy of which is on file with the City Clerk and which is incorporated herein by reference, calling said election is hereby approved in all respects, and the Mayor or Mayor Pro Tempore is hereby authorized to execute said Special Election Proclamation and Notice on behalf of the City, and the City Clerk is hereby authorized to attest and affix the seal of the City to said Special Election Proclamation and Notice, and to cause a copy of said Special Election Proclamation and Notice

to be published as required by law, and a copy thereof delivered to the Cleveland County Election Board.

Section 6. That the City Clerk shall serve or cause to be served, a copy of this Ordinance and the Special Election Proclamation and Notice upon the office of the Cleveland County Election Board, at least sixty (60) days prior to the date of the election.

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Ordinance No. 0-0910-16

PASSED AND ADOPTED AND SIGNED BY THE MAYOR THIS 22ND DAY OF DECEMBER, 2009.

THE CITY OF NORMAN, OKLAHOMA

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

Ordinance No. 0-0910-16

STATE OF OKLAHOMA )
) SS
COUNTY OF CLEVELAND)

I, the undersigned, the duly qualified and acting Clerk of The City of Norman, Oklahoma hereby certify that the foregoing is a true and complete copy of an Ordinance authorizing the calling and holding of an election for the purpose therein set out adopted by the governing body of said municipality and Transcript of Proceedings of said governing body at a regular meeting thereof held on the date therein set out, insofar as the same relates to the introduction, reading and adoption thereof as the same appears of record in my office.

I further certify that attached hereto is a true and complete copy of the public notice posted at the Municipal Building Council Chambers, 201 W. Gray, Norman, Oklahoma, in said municipality at least twenty-four (24) hours prior to the meeting wherein said Ordinance was adopted, excluding Saturdays, Sundays and State designated legal holidays.

WITNESS my hand and the seal of said City this 22nd day of December, 2009.

(SEAL)

_____
City Clerk

SPECIAL ELECTION PROCLAMATION AND NOTICE

Under and by virtue of Section 27, Article 10 of the Oklahoma Constitution and the statutes of the State of Oklahoma and Acts complementary, supplementary and enacted pursuant thereto, and Ordinance No. O-0910-16 dated December 22, 2009, authorizing the calling of an election on the propositions hereinafter set forth, I, the undersigned Mayor of The City of Norman, Oklahoma, hereby call a special election and give notice thereof to be held in The City of Norman, Oklahoma, on the 2nd day of March, 2010, for the purpose of submitting to the registered, qualified voters in said City the following propositions:

PROPOSITION NO. 1

"SHALL THE CITY OF NORMAN, STATE OF OKLAHOMA, INCUR AN INDEBTEDNESS BY ISSUING ITS BONDS IN THE SUM OF NINETEEN MILLION DOLLARS ($19,000,000) TO PROVIDE FUNDS FOR THE PURPOSE OF RECONSTRUCTING, REPAIRING, IMPROVING, AND REHABILITATING EXISTING STREETS, ROADS, AND INTERSECTIONS IN THE CITY OF NORMAN, OKLAHOMA (INCLUDING LIGHTING, SIDEWALKS/BIKEPATHS, LANDSCAPING, RELATED DRAINAGE IMPROVEMENTS, DRIVEWAY RECONSTRUCTION, AND OTHER RELATED IMPROVEMENTS); AND LEVY AND COLLECT AN ANNUAL TAX, IN ADDITION TO ALL OTHER TAXES, UPON ALL THE TAXABLE PROPERTY IN SAID CITY SUFFICIENT TO PAY THE INTEREST ON SAID BONDS AS IT FALLS DUE, AND ALSO TO CONSTITUTE A SINKING FUND FOR THE PAYMENT OF THE PRINCIPAL THEREOF WHEN DUE, SAID BONDS TO BEAR INTEREST AT NOT TO EXCEED THE RATE OF TEN PERCENTUM (10%) PER ANNUM, PAYABLE SEMI-ANNUALLY AND TO BECOME DUE SERIALLY WITHIN FIVE (5) YEARS FROM THEIR DATE?"

□ FOR THE ABOVE PROPOSITION

□ AGAINST THE ABOVE PROPOSITION

PROPOSITION NO. 2

"SHALL THE CITY OF NORMAN, STATE OF OKLAHOMA, INCUR AN INDEBTEDNESS BY ISSUING ITS BONDS IN THE SUM OF TWO MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($2,250,000) TO PROVIDE FUNDS FOR THE PURPOSE OF IMPROVING THE CITY OUTDOOR WARNING SIREN SYSTEM IN THE CITY OF NORMAN, OKLAHOMA, BY ACQUIRING NEW WARNING SIRENS AND CONTROL STATION HARDWARE AND SOFTWARE, BY ACQUIRING LAND FOR WARNING SIRENS, AND BY MODIFYING AND RELOCATING CERTAIN OF THE EXISTING WARNING SIRENS, ALL TO BE OWNED EXCLUSIVELY BY SAID CITY; AND LEVY AND COLLECT AN ANNUAL

TAX, IN ADDITION TO ALL OTHER TAXES, UPON ALL THE TAXABLE PROPERTY IN SAID CITY SUFFICIENT TO PAY THE INTEREST ON SAID BONDS AS IT FALLS DUE, AND ALSO TO CONSTITUTE A SINKING FUND FOR THE PAYMENT OF THE PRINCIPAL THEREOF WHEN DUE, SAID BONDS TO BEAR INTEREST AT NOT TO EXCEED THE RATE OF TEN PERCENTUM (10%) PER ANNUM, PAYABLE SEMI-ANNUALLY AND TO BECOME DUE SERIALLY WITHIN FIVE (5) YEARS FROM THEIR DATE?"

□ FOR THE ABOVE PROPOSITION

□ AGAINST THE ABOVE PROPOSITION

DESCRIPTION OF PROJECTS AND USE OF PROCEEDS

**(Proposition No. 1)**
**Street and Road Project**

The rural road improvements, the urban asphalt pavement rehabilitation, the urban concrete pavement rehabilitation, and the roadway reconstruction, all represent improvements to roads and streets in The City of Norman, Oklahoma, including but not limited to those roads and streets listed below. The costs of the projects are based on engineering estimates, with engineering to be completed as the street and road bonds are issued and with the improvements to be made as needed. The specific projects for which at least seventy percent (70%) of the proceeds of the aforesaid street and road bonds shall be expended and the dollar amount of each such project shall be as follows:

Rural Road Improvements

Project will improve rural roads. Roadside ditches will be cleaned out and shaped to provide better drainage. Subgrade will be strengthened with crushed rock and compacted to provide support to the pavement and an asphalt surface treatment will be applied. The following rural roads are to be improved:

| STREET NAME | LIMITS |
|---|---|
| **24th Ave NE** | **Rock Creek Rd to Franklin Rd** |
| **84th Ave SE** | **Post Oak Rd to Etowah Rd** |
| **Post Oak Rd** | **84th Ave SE to 96th Ave SE** |
| **144th Ave NE** | **Indian Hills Rd to Stella Rd** |
| **Deer Creek Rd** | **132nd Ave NE to 144th Ave NE** |
| **132nd Ave SE** | **Cedar Lane to Etowah Rd** |
| **48th Ave SE** | **Highway #9 to Post Oak Rd** |

| STREET NAME | LIMITS |
|---|---|
| Indian Hills Rd | 48th Ave NE to 72nd Ave NE |
| 156th Ave NE | Tecumseh Rd to Bethel Rd |
| 48th Ave NE | Franklin Rd to Indian Hills Rd |
| Indian Hills Rd | 36th Ave NE to 48th Ave NE |
| Imhoff Rd | 156th Ave SE to 168th Ave SE |
| Lindsey St | 144th Ave SE to east end |
| 168th Ave SE | Imhoff Rd to south city limits |
| Cedar Lane | 120th Ave SE to 132nd Ave SE |
| 156th Ave NE | Highway #9 to Tecumseh Rd |
| 72nd Ave NE | Franklin Rd to Bethel Rd |
| Cedar Lane | 36th Ave SE to 48th Ave SE |
| Cedar Lane | 60th Ave SE to 72nd Ave SE |
| Bethel Rd | 96th Ave NE to .5 E of 108th NE |
| Tecumseh Rd | 144th Ave NE to 156th Ave NE |
| 168th Ave NE | Highway #9 to Alameda St |
| Alameda St | 168th Ave SE to 180th Ave SE |
| 72nd Ave SE | Cedar Ln to Etowah Rd |
| Indian Hills Rd | .5 mi w of 144th NE to 156th NE |
| Bethel Rd | 144th Ave NE to 156th Ave NE |
| 84th Ave SE | Highway #9 to Post Oak Rd |
| Franklin Rd | 156th Ave NE to 180th Ave NE |

$2,250,000

Urban Asphalt Pavement Rehabilitation

Project will improve urban streets. Streets will be deep patched, the existing asphalt wearing surface will be milled off, cracks will be sealed, and a new wearing surface added. The following streets are to be improved:

| STREET NAME | LIMITS |
|---|---|
| Dover St | Vicksburg - Bull Run |
| Bull Run St | Chamblee Dr - Chalmette Dr |
| Chalmette Dr | Bull Run St - Chamblee Dr |
| Chamblee Dr | Chalmette Dr - East 1700 Block |
| Atchison Dr | U.S. Hwy 77 - Topeka Dr |
| Topeka Dr | U.S. Hwy 77 - Atchison Dr |
| Stoney Brook Dr | North Interstate - Bismarc Lane |
| Regal Run Dr | Stoney Brook - Swan Hollow |
| Swan Hollow Dr | Regal Run - Stoney Brook |
| Duvall Dr | Stoney Brook - Dove Hollow Lane |
| Dove Hollow Lane | Stoney Brook - Duvall Dr |

| STREET NAME | LIMITS |
|---|---|
| Dove Crossing Dr | North Interstate - Bismarc |
| Bismarc Lane | Stoney Brook - Dove Crossing Dr |
| Ridgeline Dr | 48th Ave N.W. - North 3700 Block |
| Ridgeline Cir | Ridgeline Dr - West 4100 Block |
| Ridgeway Pl | Timberidge Dr - West 4700 Block |
| Timberidge Cir | Timberidge Dr - West 4600 Block |
| Rolling Meadow Pl | Ridgeline Dr - West 4200 Block |
| Brookline Pl | Ridgeline Dr - West 4200 Block |
| Timberidge Dr | Tecumseh Rd - Ridgeline Dr |
| Hillview Dr | Tecumseh Rd - North 3300 Block |
| 48th Ave West | Main St - Willow Grove |
| Vicksburg Ave | Alameda St - Beaumont Dr |
| Aiken Ct | Vicksburg Ave - East 1800 Block |
| Shelby Ct | East 1800 Block - East 1900 Block |
| Wilmington Ct | Vicksburg Ave - East 2000 Block |
| Yorktown Cir | Vicksburg Ave - East 1700 Block |
| Vicksburg Cir | Vicksburg Ave - South 300 Block |
| National Dr | Tecumseh Rd - U.S. Hwy 77 |
| Hidden Lake Dr | 24th Ave NW - West 2200 Block |
| Lake Front Cir | 24th Ave NW - West 2200 Block |
| Boardwalk | 24th Ave NW - Interstate |
| 26th Ave NW | Tee - Westport; 600 Block |
| Wall St | Boardwalk - Tee Dr |
| Blue Lake Dr | Indian Hills Rd - 12th Ave NW |
| Spring Mill Rd | Indian Hills Rd - Blue Lake Dr |
| Sleepy Hollow Rd | Blue Lake Dr - Willow Brook Lane |
| Willow Brook Lane | 12th Ave N.W. - Indian Hills Rd |
| Shady Lane | Blue Lake Dr - Spring Mill Rd |
| Comanche St | Porter Ave - Cook Ave |
| Eufaula St | Porter Ave - Carter Ave |
| Symmes St | Porter Ave - Reed Ave |
| Apache St | Porter Ave - Reed Ave |
| Linn St | Carter Ave - East 500 Block |
| Ponca Ave | Main - Alameda St |
| Findlay Ave | Main - Alameda St |
| Stewart Ave | Main St - Carter Ave |
| Cockrel Ave | Main St - Eufaula St |
| Carter Ave | Main St - Alameda St |

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| Aniol Ave | Comanche St - So 100 Block |
| Reed Ave | Main St - Symmes St |
| David Ct | 23rd Ave NE - East 2300 Block |
| Jackson Dr | 24th Ave NE - Crest Dr |
| Paul Ct | 23rd Ave NE - East 2300 Block |
| Teresa Dr | Jackson Dr - 22nd Ave NE |
| Helm Ct | 23rd Ave NE - East 2300 Block |
| Jazzman Dr | 23rd Ave NE - Kara Ct |
| Newman St | 23rd Ave NE - 24th Ave NE |
| Summer Dr | Kara Ct - 22nd Ave NE |
| Carolyn Ct | 23rd Ave NE - East 2300 Block |
| Morren Dr | Cindy Ave - Crest Pl |
| Barb Dr/Ct | Cindy Ave - Morren Cir |
| Vanessa Dr | 22nd Ave NE - Crest Pl |
| 23rd Ave NE | Carolyn Ct - Jackson Dr |
| 22nd Ave NE | Alex Plaza - Jackson Dr |
| Cindy Ave | Jackson Dr - Vanessa Dr |
| Crestland Dr | Morren - North 200 Block |
| Crest Ct | Vanessa Dr - Jackson Dr |
| Crest Pl | Vanessa Dr - Jackson Dr |
| Kansas St | Flood Ave - University Blvd |
| Daws St | Webster Ave - Flood Ave |
| Boyd St | Berry Rd - Wylie Rd |
| Boyd St | Berry Rd - Flood Ave |
| Barbour Ave | Nebraska St - Dakota St |
| Edinburg Dr | Coalbrook Dr - Ridge Bluff Dr |
| Rockingham Dr | Ridge Bluff Dr - Coalbrook Dr |
| Waterfront Dr | Coalbrook Dr - Coalbrook Dr |
| Bluff Ct | Rockingham Dr - North 300 Block |
| Pine Cove Ct | Rockingham Dr - North 300 Block |
| Devonshire Dr | Lochwood Dr - Sandstone |
| Sandstone Dr | Lochwood Dr - Devonshire Dr |
| Sandstone Cir | Sandstone Dr - East 2900 Block |
| Lochwood Dr | Alameda - North 200 Block |
| Coalbrook Dr | Devonshire Dr - Coach Ct |

$8,250,000

Urban Concrete Pavement Rehabilitation

Project will improve urban Portland cement concrete streets and will include removal and replacement of broken, damaged, and displaced concrete panels on the urban street system, as well as joint and crack sealing. The following streets are to be improved:

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| **Rambling Oaks Dr** | **36th Ave West - Tall Oaks Cir** |
| **Starbrook Ct** | **Rambling Oaks Dr - North 500 Block** |
| **Bonita Cir** | **Rambling Oaks Dr - North 500 Block** |
| **Cheswick Ct** | **Rambling Oaks Dr - North 500 Block** |
| **Bent Oak Cir** | **Rambling Oaks Dr - 3100 Block** |
| **Tall Oaks Cir** | **Rambling Oaks Dr - 3100 Block** |
| **Bridgeport Rd** | **36th Ave NW - Brownwood Lane** |
| **Nicole Cir** | **Castlerock Rd - West 3800 Block** |
| **Stonehurst St** | **Castlerock Rd - Drawbridge Lane** |
| **Drawbridge Lane** | **Castlerock Rd - Stonehurst St** |
| **Knights Bridge St** | **Castlerock Rd - Wood Castle St** |
| **Wood Castle St** | **Castlerock Rd - Knights Bridge St** |
| **Buckingham Dr** | **36th Ave NW - Bridgeport Rd** |
| **Castlerock Rd** | **Tecumseh Rd - Brownwood Lane** |
| **Nicole Pl** | **Castlerock Rd - North 4100 Block** |
| **Wellington Pl** | **Buckingham Dr - North 3900 Block** |
| **Brownwood Lane** | **Bridgeport Rd - 36th Ave NW** |
| **Worthington Dr** | **Bridgeport Rd - Buckingham Dr** |
| **Pleasant Grove** | **Bridgeport Rd - Buckingham Dr** |
| **Milford Pl** | **Bridgeport Rd - North 4000 Block** |
| **Moor Dr** | **Nicole Pl - Castlerock Rd** |
| **Brunswick Lane** | **Brownwood Lane - West 3900 Block** |
| **Brookhaven Blvd** | **Robinson St - North to Danfield Lane** |
| **Braden Dr** | **Bellwood Dr - Glenbrook Dr** |
| **Pembroke Dr** | **Burlington Dr - Barwick Dr** |
| **Barwick Dr** | **Brookhaven Blvd - Pembroke Dr** |
| **Devon Ct** | **N 1700 Block - Barwick Dr** |
| **Warwick Ct** | **South to Brookhaven Blvd** |
| **Waverly Ct** | **South to Brookhaven Blvd** |
| **Bellwood Dr** | **Bristol Dr - Braden Dr** |
| **Glenbrook Dr** | **Brookhaven Blvd - Braden Dr** |
| **Burlington Dr** | **Brookhaven Blvd - 36th Ave NW** |

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| Windover Dr | Barwick Dr - Pembroke Dr |
| Barwick Ct | Barwick Dr - Pembroke Dr |
| Danfield Dr | Northridge Rd - Danfield Lane |
| Danfield Lane | Brookhaven Blvd - Danfield Dr |
| Evesham Ct | Danfield Dr - West 3900 Block |
| Stoneleigh Pl | Danfield Dr - West 3900 Block |
| Calais Ct | Danfield Dr - West 3700 Block |
| Wyndam Pl | Danfield Dr - West 3800 Block |
| Hidden Hill Rd | Winding Ridge Rd - 36th Ave N.W. |
| Windermere Dr | Hidden Hill Rd - North 1900 Block |
| Banbury Ct | Hidden Hill Rd - North 1900 Block |
| Alderbrook St | Hidden Hill Rd - North 1900 Block |
| Guilford Ct | Hidden Hill Rd - North 1900 Block |
| Abbotsford Lane | Guilford Lane - Guilford Lane |
| Rosebrook | Brookhaven Blvd - North 1900 Block |
| Wyckham Pl | Brookhaven Blvd - North 2100 Block |
| Northhampton Dr | Brookhaven Blvd - Grandview Ave |
| Northhampton Ct | Grandview Ave - West 4200 Block |
| Grandview Ave | Pebblecreek Rd - North 1900 Block |
| Hillside Dr | Grandview Ave - West 4300 Block |
| Pebblecreek Rd | Grandview Ave - West 4100 Block |
| Brookfield Dr | Trophy Dr - Grandview Ave |
| Trophy Dr | Brookfield Dr - Brookfield Dr |
| Bristol Dr | Bellwood Cir - Brookhaven Blvd |
| Burlington Pl | Brookhaven Blvd - South 1300 Block |
| Bingham Pl | Brookhaven Blvd - South 1300 Block |
| Brookdale Dr | Robinson St - North to Brookhaven Blvd |
| Stratford Lane | Brookdale Dr - West 3900 Block |
| Coventry Lane | Brookdale Dr - West 3900 Block |
| Briarcrest Dr | Broad Acres Dr - East to Brookdale Dr |
| Waverly Dr | Warwick Dr East to Brookhaven Blvd |
| Warwick Dr | Waverly Dr East to Brookhaven Blvd |
| Oxford Way | Winding Ridge Rd East to Brookhaven Blvd |
| Northridge Rd | Winding Ridge Rd East to Danfield Dr |
| Charing Cross Ct | Brookhaven Blvd - North 2200 Block |
| Valley Ridge Rd | Briarcrest Dr North to Hidden Hill Rd |
| Valley Vista | Valley Ridge Rd - West 4200 Block |
| Brookview | Valley Ridge Rd - West 4200 Block |
| Balmoral Ct | Winding Ridge - West 4400 Block |
| Saint Andrews Ct | Winding Ridge - West 4400 Block |

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| Winding Ridge Rd | Briarcrest Dr - Hidden Hill Rd |
| Cedar Hill Rd | Northridge Rd - Hidden Hill Rd |
| Winding Ridge Cir | Winding Ridge Rd - West 4400 Block |
| Green View Cir | Winding Ridge Rd - West 4400 Block |
| Broad Acres Dr | Robinson St - Northridge Rd |
| Beckett Ct | Broad Acres Dr - West 4500 Block |
| Briarcrest Cir | Briarcrest Dr - North 1300 Block |
| Alexander Ct | Broad Acres Dr - West 4400 Block |
| Greenfield Cir | Broad Acres Dr - West 4500 Block |
| Polo Ridge Cir | Broad Acres Dr - West 4500 Block |
| Chukkar Ct | Northridge Rd - W 4500 Block |
| Boyd St | Classen Blvd - 12th Ave East |
| Main St | Park Dr - 48th Ave West |
| 36th Ave West | Main St - Willowbend Rd |
| Whippoorwill Dr | Oakhurst Ave - Elmhurst Dr |
| Allenhurst St | Oakhurst Ave - Amhurst Ave |
| Oakhurst Cir | Oakhurst Ave - E 1900 Block |
| Elmhurst Dr | Whippoorwill Dr - Amhurst Ave |
| Amhurst Ave | Allenhurst St - South 1400 Block |
| Ridgewood Dr | Oakhurst Ave - Oakcliff Rd |
| Lakehurst Dr | Oakhurst Ave - Oakcliff Rd |
| Oakcliff Rd | Lakehurst Ave - Burnt Oak Dr |
| Oakcrest Ave | Oakhurst Ave - Elmhurst Dr |
| Rollingstone Dr | Oakhurst Ave - South 1600 Block |
| Rollingstone Cir | Oakhurst Ave - West 1900 Block |
| Twisted Oak Dr | Oakhurst Ave - East 1800 Block |
| Twisted Oak Cir | Twisted Oak Dr - South 2000 Block |
| Flood Ave | Main St - Gray St |
| 26th Ave NW | Hemphill Dr - North 600 Block |
| Hemphill Dr | 24th Ave NW - 26th Ave NW |
| Fairway Ct | 24th Ave NW - Fairway Dr |
| Comanche St | Porter Ave - Peters Ave |
| Comanche St | Lahoma Ave - Chautauqua |
| Pickard Ave | Timberdell Rd - Elmwood Dr |
| Pickard Ave | Imhoff Rd - Lakewood Dr |
| Green Hills Dr/Ct | Kingsbury Dr - West 3900 Block |
| Morain Ct | Cherry Creek Dr - West 4000 Block |
| Preston Ct | Cherry Creek Dr - West 3900 Block |
| Knob Hill Cir | Cherry Creek Dr - South 200 Block |

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| Knob Hill Ct | Cherry Creek Dr - West 3900 Block |
| Pine Tree Cir | Cherry Creek Dr - West 3900 Block |
| Beechwood Dr | Cherry Creek Dr - Kingsbury Dr |
| Durango Cir | Cherry Creek Dr - West 3900 Block |
| Silverton Cir | Cherry Creek Dr - West 4100 Block |
| Orchard Lane | Cherry Creek Dr - Alpine Dr |
| Hughes Cir | Cherry Creek Dr - West 4100 Block |
| Western View Dr | Cherry Creek Dr - 36th Ave S.W. |
| Morrison Ct | Stone Well Dr/Cir - E 3900 Block |
| Morrison Cir | Stone Well Dr - E 4100 Block |
| Kingsbury Dr | Beechwood Dr - Green Hills Dr |
| Cherry Creek Dr | Main St - Western View Dr |
| Stone Well Dr | South 300 Block - South 500 Block |
| Pine Tree Lane | Cherry Creek Dr - Green Hills Dr |
| Alpine Cir | Orchard Lane - South 500 Block |
| Boulder Ct | South 300 Block - South 500 Block |
| Garland Ct | South 300 Block - South 500 Block |
| Trinidad Ct | Midland Dr - Midland Dr |
| Midland Dr | Trinidad Dr - Trinidad Dr |
| Creekdale Dr | Main St - North 200 Block |
| Quail Run Cir | Creekdale Dr - West 3800 Block |
| Belhaven Cir | Creekdale Dr - West 3800 Block |
| Lynnbrook Cir | Creekdale Dr - West 3800 Block |
| Brooks St | 24th Ave S.W. - McGee Dr |
| Garrison Dr | Boyd St - Melrose Dr |
| Hal Muldrow Dr | Main St - Melrose Dr |
| Melrose Dr | Hal Muldrow Dr - Rosedale Dr |
| Melrose Ct | Hal Muldrow Dr - West 2100 Block |
| Sherry Ave | Main St - Melrose Dr |
| Mercedes Dr | Main St - Melrose Dr |
| Thompson Dr | Main St - Melrose Dr |
| Collier Dr | Main St - Melrose Dr |
| Jansing Dr | Thompson Dr - Garrison Dr |
| Garrison Dr | Melrose Dr - Jansing Dr |
| Sunset Dr | Gatewood Dr - Sherry Ave |
| Ann Arbor Dr | Sherry Ave - Berry Rd |
| Melrose Dr | Sherry Ave - Berry Rd |
| Huntington Way | Rosedale Dr - Berry Rd |
| Camden Way | Garrison Dr - Berry Rd |
| Westlawn Dr | Wylie Rd - Berry Rd |

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| **Windsor Way** | **Wylie Rd - Berry Rd** |
| **Westchester Ave** | **Sunset - Main St** |
| **Rosedale Dr** | **Melrose Dr - Boyd St** |
| **Lenox Dr** | **McGee Dr - Rosedale Dr** |
| **McGee Dr** | **Boyd St - Lenox Dr** |
| **Leslie Lane** | **Berry Rd - Cruce St** |
| **Cruce St** | **Berry Rd - McGee Dr** |
| **Caddell Lane** | **Berry Rd - McGee Dr** |
| **Brooks St** | **Berry Rd - Wylie Rd** |
| **Avondale Dr** | **Berry Rd - McGee Dr** |
| **Oakwood Dr** | **McGee Dr - Lindale Dr** |
| **Lindale Ave** | **Wylie Rd - Avondale Dr** |
| **Lancaster Cir** | **McGee Dr - West 1600 Block** |
| **Greenbriar Dr** | **Berry Rd - Smoking Oak Rd** |
| **Greenbriar Ct** | **Berry Rd - West 1200 Block** |
| **Cherry Laurel Dr** | **Berry Rd - Cypress Ave** |
| **Hawthorne Ct** | **Hollywood Ave - West 1600 Block** |
| **Spruce Dr** | **Cypress Ave - Linden Ave** |
| **Smoking Oak Ct** | **Smoking Oak Rd - West 1700 Block** |
| **Smoking Oak Pl** | **Smoking Oak Rd - West 1700 Block** |
| **Chestnut Lane** | **Smoking Oak Rd - Hollywood Ave** |
| **Locust St** | **Cypress Ave - Hollywood Ave** |
| **Sycamore St** | **Cypress Ave - Acacia Ct** |
| **Holly Cir** | **Hollywood - West 1600 Block** |
| **Magnolia St** | **Berry Rd - West 1500 Block** |
| **Smoking Oak Rd** | **McGee Dr - South 2600 Block** |
| **Hollywood Ave** | **Westbrooke Ter - Holly Ave** |
| **Cypress Ave** | **Greenbriar Dr - Magnolia St** |
| **Boxwood Ave** | **Sycamore St - Spruce Dr** |
| **Linden Ave** | **Sycamore St - Spruce Dr** |
| **Acacia Ct** | **Magnolia St - South 2500 Block** |
| **Poplar Lane** | **Imhoff Rd - Magnolia St** |
| **Aspen Lane** | **Poplar Lane - Magnolia St** |
| **Aspen Cir** | **Aspen Lane - South 2700 Block** |

$4,500,000

Road Reconstruction

Project will completely reconstruct urban streets and will include removal of existing pavement, curb and/or gutter, stabilization of subgrade, construction of new curb and/or gutter and driveway approaches,

full depth paving, and drainage improvements, if required. The following streets are to be improved:

| STREET NAME | LIMITS OR SUBDIVISION |
|---|---|
| **Hayes St** | **Flood Ave - James Garner Ave** |
| **Mosier St** | **Flood Ave - James Garner Ave** |
| **Himes St** | **Flood Ave - James Garner Ave** |
| **Johnson St** | **Flood Ave - James Garner Ave** |
| **Iowa St** | **Berry Rd - Barbour Ave** |
| **Mosier St** | **Cockrel Ave - Carter Ave** |
| **Nebraska St** | **University Blvd - Flood Ave** |
| **Iowa St** | **Berry Rd - Pickard Ave** |
| **Iowa St** | **Flood Ave - University Blvd** |
| **Dakota St** | **Berry Rd - University Blvd** |

$4,000,000

Total Street and Road Projects $19,000,000

**(Proposition No. 2)**
**Outdoor Warning Siren Project**

The specific projects for which at least seventy percent (70%) of the proceeds of the outdoor warning siren bonds shall be expended and the dollar amounts of each such project shall be as follows:

Outdoor Warning Siren Project

Project will consist of improving The City of Norman, Oklahoma outdoor warning siren system made up of the following components:

| | |
|---|---|
| Acquisition costs of new warning sirens | $1,740,000 |
| Land acquisition | $100,000 |
| Control station hardware and software | $55,500 |
| Modification and relocation of existing sirens | $170,000 |
| Contingency | $184,500 |
| Total Outdoor Warning Siren Project | $2,250,000 |

That only the registered, qualified voters of The City of Norman, Oklahoma, may vote upon the propositions as above set forth.

The polls shall be opened at 7:00 O'clock A.M. and remain open continuously until and be closed at 7:00 O'clock P.M.

Such election shall be conducted by those precinct officers designated by the County Election Board of Cleveland County, Oklahoma, which officers shall also act as counters and certify the results in the case of regular elections and certify the results thereof as required by law.

The number and location of the polling places and the names of the persons who shall conduct said election shall be provided by the County Election Board.

DATED this 22nd day of December, 2009.

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

TRANSPORTATION COMMITTEE MINUTES

September 24, 2009

The City Council Transportation Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the Municipal Building Conference Room on the 24th day of September, 2009, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

| | |
|---|---|
| MEMBERS PRESENT: | Councilmembers Butler, Cubberley, and Kovach |
| MEMBERS ABSENT: | Chairman Quinn |
| OTHERS PRESENT: | Councilmember Jim Griffith<br>Ms. Theta Dempsey, OU Parking and Transportation Administrator<br>Mr. Greg Hall, Street Maintenance Superintendent<br>Mr. Steve Lewis, City Manager<br>Ms. Betty Love, Assistant to Theta Dempsey, CART<br>Ms. Janice Oak, Progressive Independence<br>Mr. Shawn O'Leary, Director of Public Works<br>Mr. Cody Ponder, Grants Specialist II for OU<br>Ms. Linda Price, Revitalization Manager<br>Ms. Syndi Runyon, Administrative Technician IV<br>Ms. Mary Frances, interested citizen |

REVIEW OF CRITERIA FOR STREETS THAT WILL BE INCLUDED IN A GENERAL OBLIGATION BOND ELECTION IN 2010.

Mr. Shawn O'Leary, Director of Public Works, said in 2005, voters passed a five year bond proposal for pavement reconstruction on existing streets and said another bond proposal is being prepared for March 2010, in the amount of $19 million to keep the maintenance program ongoing. He provided an overview of projects that have been completed to date, as well as current projects. He said the City maintains approximately 800 miles of streets throughout Norman that consist of 66% urban streets, 30% rural, and 4% other such as various sections of highways. He said the City uses a Pavement Condition Index with a scale of 0 to 100 as follows: 85-100 – Excellent, 80-84 - Very Good, 70-79 – Good, 60-69 – Fair, 40-59 – Poor, and 10-39 - Very Poor. He said the City's goal is to keep street conditions maintained at 70 or above. He said the focus of the maintenance program is to extend the life of local streets, which is inexpensive compared to total rehabilitation. Councilmember Kovach asked if there is a point at which the City decides there are too many layers between the top of the street and the sub-grade from performing overlays. Mr. Greg Hall, Street Maintenance Superintendent, replied yes and said Staff does not like to keep overlaying because it causes drainage issues. Mr. O'Leary said drainage is an integral part of any pavement project and overlaying can also cause problems with existing bicycle lanes.

Mr. O'Leary said Norman began using a Pavement Management System (PMS) in 2001, with data collected by Infrastructure Management Services (IMS) to provide a comprehensive report on City street conditions. He said all existing pavement and types were tested and the pavements range in age from approximately the year 1910 to 2009. He said the PMS provides an inventory of all paved roads and their overall condition, assists in determining maintenance strategies, and is used for budgeting maintenance dollars from the bond program and the Capital Improvement Projects Budget. Mr. O'Leary said the PMS is a great tool because prior to that, Staff drove the streets to determine which streets needed maintenance.

He said the PMS gives unbiased data, is a good management tool, and allows tracking. Mr. O'Leary talked about the pavement deterioration curve and pavement aging curve and how they are used as a tool for preventive maintenance. He said current goals include maintaining a scale of 70 or over pavement condition rating; improving service to citizens and drivers; maximizing resources; finding innovative maintenance methods and materials; and establishing a preventative maintenance philosophy and budget.

Mr. O'Leary said the proposed 2010 bond proposal will request $19 million to be distributed as follows:

- 55% asphalt rehabilitation and maintenance
- 30% concrete rehabilitation and maintenance
- 15% rural road rehabilitation and maintenance (reduce the current inventory of unpaved roads from 15 miles to 5 miles)
- Bicycle safety features (i.e. grates and drainage structures) modification where applicable
- Perform necessary drainage improvements

Mr. O'Leary also reviewed the timeline for a March 2, 2010, election.

Councilmember Butler asked if rural roads could be paved to accommodate bike lanes and Mr. O'Leary said Staff has been working closely with the Bicycle Ad Hoc Committee and that Committee has inventoried roads and submitted a list of recommended bike lanes which can be incorporated into rural maintenance projects.

Councilmember Butler asked Staff to submit the list of streets scheduled for maintenance/rehabilitation at the next meeting of October 15, 2009. She said after the Transportation Committee has reviewed the list, Council will review it in a Study Session on November 3, 2009. Councilmember Kovach asked if the Finance Committee needed to review the financial aspect of the bond proposal and Councilmember Cubberley said that has been done and the Finance Committee was in agreement with the $19 million figure. Mr. Steve Lewis, City Manager, asked if the City had held a Town Hall meeting before the 2005 bond proposal and Councilmembers said they did not believe so, but information was placed on the website and Channel 20. Mr. O'Leary said Staff is preparing an informational video on pavement management that can be played on Channel 20.

Items submitted for the record

1. PowerPoint presentation entitled, "2010 Bond Proposal Street Maintenance," dated September 24, 2009

DISCUSSION REGARDING REVISIONS TO THE CART RIDERSHIP REPORT INCLUDING SAFERIDE AND EXTENDED SERVICE.

Ms. Theta Dempsey, OU Parking and Transportation Administrator, said there were small increases in overall ridership but a decrease on the CARTaccess. She said the decrease could be due to more fixed route bus stops being accessible to riders with disabilities.

Ms. Janice Oak, Progressive Independence, said some disabled citizens have stopped riding the CARTaccess because they are not treated well. Councilmember Kovach asked her if she could elaborate on that statement and Ms. Oak said they do not like being "tied down." Ms. Dempsey explained that riders using wheelchairs have to wear seatbelts and the wheelchairs must to be secured so they cannot roll around. She said these regulations were put into place several years ago after CART had received three liability

claims in an eight month period. Councilmember Cubberley asked if there had been any claims since the new regulations were put into place and she said no. Councilmember Kovach asked if fixed route busses had different regulations and Ms. Dempsey again replied no. Councilmember Kovach asked Ms. Oak if she felt educating riders on the reasons for the regulations would make a difference and she said it may help a little. Councilmember Kovach said, in his experience, people are more understanding when the reason for certain actions are explained to them rather than just forced upon them.

Ms. Dempsey said CART is reevaluating their long range transportation plan and would include a Porter Avenue route contingent upon implementation of the Porter Corridor Plan. She said they would also remove the proposed west side route from the plan as CART is now providing transportation to the Norman Regional Healthplex, University North Park, Brookhaven Village, and Embassy Suites with the new West Norman Link route.

Items submitted for the record

1. Cleveland Area Rapid Transit Total Weekday Passenger Trips; Average Daily Passenger Trips; CARTaccess; Same Day and Zone Two; Bicycle and Saturday Totals; Total Saturday Passenger Trips; Average Saturday Passenger Trips; Expanded Sooner Express; Social Security Administration; and Little Axe Shuttle

DISCUSSION REGARDING THE POSSIBILITY OF REQUESTING THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS (ACOG) FACILITATE A COMMUTER RAIL STUDY FOR THE NORMAN TO OKLAHOMA CITY AND OKLAHOMA CITY TO EDMOND SEGMENTS.

Councilmember Butler said it was her understanding that ACOG would not be able to fund a study this year. She asked that this item be postponed until the next meeting when Chairman Quinn could be in attendance. Councilmember Kovach said he would like to proceed with a resolution as a first step towards future opportunities.

MISCELLANEOUS DISCUSSION.

Ms. Dempsey told the Committee that the University will be requesting the closure of sections of Jenkins and Asp in order to build an underground tunnel. She said this would affect five bus routes and CART Staff is in the process of planning temporary routes. She said CART could use Boyd Street to Elm Avenue to Lindsey Street; however, the busses cannot make the left hand turn onto Lindsey because of southbound turn lane on Lindsey Street. Councilmembers suggested that the City temporarily close the turn lane or restripe the lane to have cars stop further back from the light to give the busses the extra area needed to complete the turn.

Councilmember Butler said ACOG will hold a public meeting on October 6, 2009, regarding a transportation study they have completed on the "people experience of getting around" from 4:00 to 6:00 p.m. at the Oklahoma City Foundation. She said ACOG's Rideshare Website is online and the address is getaroundok.com and she suggested adding this to the transportation link of the City of Norman's website. Rideshare is a new carpool matching program that helps citizens of Central Oklahoma get to know each other better while saving gas, time and money.

The meeting adjourned at 6:55 p.m.

Mayor Rosenthal said ACOG is involved in the Regional Transit Dialogue and expects to play a significant role in an Intermodal Hub Study in OKC and while they feel it will be important to conduct a Commuter Rail Study, it is not possible to do so this year. Mayor Rosenthal suggested waiting until January before adopting a resolution to that effect. Chairman Quinn asked if the timing is bad to adopt a resolution now. Mayor Rosenthal said she would like to see how the TIGER grant plays out first and felt it would be better to adopt a resolution supporting the high speed rail application. Councilmember Kovach said he would support a resolution for the high speed rail application; however, a resolution supporting a commuter rail study would not be mute if the high speed rail application is accepted because an environmental analysis would still be needed for the stops along the way that are outside of the BNSF right-of-way. He said the commuter rail resolution is flexible and by starting now, ACOG will know what kind of support they have. Councilmember Butler said she would like to separate the two projects and do something to focus on the high speed rail project and then refine the commuter rail study resolution for later distribution. Councilmember Cubberley agreed and said, in January, if no movement has happened regarding the high speed rail application, Council could consider a commuter rail study resolution incorporating language about the high speed rail application. Councilmembers asked Staff to draft language supporting the high speed rail application to be forwarded to the full Council on its regular agenda for consideration.

Items submitted for the record

1. Draft resolution for Commuter Rail Study

REVIEW OF STREETS TO BE CONSIDERED IN THE EXTENSION OF THE EXISTING FIVE YEAR STREET IMPROVEMENT PROGRAM.

Mr. Steve Lewis, City Manager, said in 2005, the voters of Norman approved a five year street maintenance General Obligation Bond program that will end in 2010. He said recent Quality of Life Survey results indicated 74% of those who responded would be somewhat likely or very likely to support a new street maintenance bond program as long as it did not increase property taxes. He said the maintenance of City streets and sidewalks ranked in the top three areas the City should focus on over the next two years.

Mr. Shawn O'Leary, Director of Public Works, provided an overview of completed 2005 bond projects as well as the proposed street projects included in a possible March 2010, election to continue the maintenance program. He said approximately $1,000,000 remains in the 2005 bond program and all of the projects have been completed. He attributes this to a good bidding environment and management of the Pavement Management System (PMS) program. He said with the Council's concurrence, Staff will move forward with a bid proposal for the remaining funds to be used for additional urban asphalt maintenance projects and provided a list of streets and construction timeline. He said these projects are a continuation of the PMS selection process and are the first obvious candidates for maintenance. Councilmember Cubberley said the streets appear to be in a concentrated area and asked if Staff anticipated criticism from citizens regarding the construction. Mr. Greg Hall, Superintendent of Streets, said one contractor would be doing the entire project and the streets would be staggered. Councilmember Kovach asked what type of notification citizens would receive and Mr. O'Leary said Staff can notify citizens collectively and added that most projects will allow for traffic access while construction is ongoing.

Mr. O'Leary said the 2010 Bond Proposal totals $19 million to be distributed as follows:

- 55% asphalt rehabilitation and maintenance
- 30% concrete rehabilitation and maintenance
- 15% rural road rehabilitation and maintenance (reduce the current inventory of unpaved roads from 15 miles to 5 miles)
- Bicycle safety feature (i.e. grates and drainage structures) modification where applicable
- Perform necessary drainage improvements (i.e. minor storm water sewer extensions, valley gutters, and rural roadside drainage tinhorns)

Councilmember Butler asked if the bicycle projects would be in conjunction with paving projects or more widespread and Mr. O'Leary responded they will be in conjunction with the paving projects and will be only minor improvements for drainage purposes.

Mr. O'Leary reviewed the selection criteria, maintenance strategies, and streets scheduled for maintenance. Councilmember Kovach had asked about the affect on speed tables on streets to be rehabilitated and Mr. O'Leary said the contractor will mill up to the table and stop, then mill the other side without removing or damaging the table. Mayor Rosenthal questioned why there were areas scheduled for maintenance where the streets were fairly new and Mr. Hall said although some streets in subdivisions are fairly new, others in the older parts of the addition need attention and would only require crack and sealing or a rejuvenating coat that could prolong the life of the street ten years. Mr. O'Leary said there are also streets in newer areas that are not performing as they should and taking care of those streets now to prolong life is the most cost effective method.

Mr. O'Leary said when maintenance is completed on a project, the entire block will be rehabilitated. He said while the entire block may not receive resurfacing treatment, it will receive other improvements such as replacement of storm drain grates, drainage improvements, etc. Mayor Rosenthal said it is also important citizens understand the City is completing connections and filling out the road system in rural east Norman.

Dr. Kyran Mish, Chair of the Bicycle Ad Hoc Committee, said Boyd Street is a popular bike route and felt this would be a good opportunity, while the street is under repair, to place a bike lane there separate from vehicle traffic. Mayor Rosenthal asked if it would be practical to place a painted line for a bike lane on Boyd and Mr. O'Leary said the Bike Committee is reviewing on-street painted bike lanes as well as shoulders for specific rural roads, which could merge with the maintenance projects. Councilmember Butler said 156th Avenue gets a lot of traffic and asked if that street was just being resurfaced or if other improvements were being done and Mr. Hall said Staff looked at the economics of installing shoulders but additional right-of-way would need to be purchased, which would increase the cost significantly. Councilmember Kovach asked whether shoulders extend the life of the road and Mr. O'Leary answered yes. Dr. Mish said roadways fail from the edges and that is why shoulders are important. Councilmember Butler suggested placing "Share the Road" signs in hilly areas, especially on Franklin Road, Robinson Street, and Lindsey Street until such time shoulders could be added. Dr. Mish suggested lowering the speed limits and enforcing them on hilly roads because of the limited site distance. Councilmember Kovach asked if there were eastern rural roads scheduled for maintenance where a bike path could be accommodated such as Alameda, which is heavily used by bicyclists. Mr. O'Leary said the Bicycle Ad Hoc Committee is reviewing options; however, Staff would have to confer with the Bond Counsel to determine whether bike paths can be legally included as part of a project in the bond proposal.

Mr. O'Leary said rural road projects are proposed as partnership projects with Cleveland County. The estimated $2.8 million includes City labor, County labor, and materials, but the value of the rehab is closer to $5.6 million. He said it is good leveraging of resources and the City's relationship with the County, but it assumes the relationship continues with Cleveland County. Councilmember Cubberley asked if this was in addition to funds/projects budgeted in the Capital Improvements Program for materials and labor and Mr. Hall replied yes.

Mr. O'Leary said Staff prepared additional information for streets that are in such condition, the only option is total reconstruction, which includes new curbs and gutters; new driveway approaches; stabilizing subgrade; full depth paving; and drainage improvements of ten lane miles for approximately $10 million. Councilmember Cubberley said the last bond proposal did not have a minor road reconstruction component and the sides streets are often the ones that get ignored for years so this portion would help address concerns from those citizens that feel their streets are being pushed aside for larger projects. Councilmember Kovach said the roads that need reconstruction require more maintenance because they are being patched frequently, which increases the operations and maintenance budget and Mr. O'Leary agreed.

Mr. Francisco highlighted the property tax impact to property owners for the bond proposal as follows:

Option 1 - PROPOSED 5-YEAR STREET RESURFACING G.O. BONDS, SERIES 2010 ($19 million)

| | |
|---|---|
| Average Impact on Home with $100,000 Market Value | $3.83 per month |
| Average Impact on Home with $150,000 Market Value | $5.92 |
| Average Impact on Home with $200,000 Market Value | $8.01 |

No Tax Increase as tax impact on households is calculated to be the same as the 2005 G.O. Bond Program.

Option 2 – PROPOSED 5-YEAR STREET RECONSTRUCTION G.O. BONDS, SERIES 2010 ($10 million)

| | |
|---|---|
| Average Impact on Home with $100,000 Market Value | $2.73 per month |
| Average Impact on Home with $150,000 Market Value | $4.22 |
| Average Impact on Home with $200,000 Market Value | $5.71 |

Slight increase on property tax.

Option 3 – PROPOSED 20-YEAR STREET RECONSTRUCTION G.O. BONDS, SERIES 2010 ($10 million

| | |
|---|---|
| Average Impact on Home with $100,000 Market Value | $.072 per month |
| Average Impact on Home with $150,000 Market Value | $1.11 |
| Average Impact on Home with $200,000 Market Value | $1.50 |

Spread debt over longer period of time.

Mayor Rosenthal had reservations about requesting $29 million in bonds. She said Council needs to be sensitive to the perceptions of voters and while she was supportive of the full Council seeing the presentation, she requested another option that would include reconstruction. She said Council needs to be cognizant of the City and State budgets during the election period. She said the entire program equals 229 miles of roadway and may be too ambitious and if the proposal is limited to $19 million the City could still do more maintenance than was included in the 2005 election. Councilmember Cubberley said because of interest costs, the 20 year option is not a good value and asked to see the figures on a ten year bond as well as a mix. Staff will present the two packages to Council in its Study Session on November 3, 2009.

Items submitted for the record

1. PowerPoint presentation entitled, "Street Maintenance Bond Program Existing (2005) and Proposed (2010)" dated October 15, 2009
2. Options for Proposed Street Maintenance and Reconstruction Bonds

MISCELLANEOUS DISCUSSION.

Ms. Janice Oak, Progressive Independence, distributed information regarding an online National Dialogue by United We Ride Department of Rehabilitation Services concerning transportation access for people with disabilities, older adults, and persons of limited income to be held November 2 through 13, 2009.

Items submitted for the record

1. E-mail dated October 13, 2009, from Beverly Graham to Janice Oak

The meeting adjourned at 7:08 p.m.

ATTEST:

City Clerk

Mayor

CITY COUNCIL STUDY SESSION MINUTES

November 17, 2009

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Conference Room on the 17th day of November, 2009, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

| | |
|---|---|
| PRESENT: | Councilmembers Atkins, Butler, Cubberley, Dillingham, Griffith, Kovach, Quinn, Mayor Rosenthal |
| ABSENT: | Councilmember Ezzell |

DISCUSSION REGARDING PROPOSED ORDINANCES CALLING FOR A SPECIAL ELECTION ON MARCH 2, 2010, FOR THE ISSUANCE OF MAINTENANCE/RECONSTRUCTION PROGRAM AND REPLACEMENT OF THE OUTDOOR WARNING SYSTEM.

Mr. Allan Brooks, Public Finance Law Group, PLLC, provided an overview of the ordinances, propositions, and timelines for a March 2, 2010, election and said general obligation bond (G.O. bonds) issues are approved by the Attorney General's Office. He said the first proposition will extend the current street maintenance program consisting of $15 million in street maintenance projects; 55% ($8,250,000) asphalt rehabilitation and maintenance, 30% ($4,500,000) concrete rehabilitation and maintenance, and 15% ($2,250,000) rural road rehabilitation and maintenance as well as $4 million in street reconstruction projects for a total of $19 million. He said the second proposition is for the installation of an Outdoor Warning System in the amount of $2,250,000, which would encompass the entire City of Norman. Mr. Brooks said there is no expiration date on voting on the issuance of G.O. bonds, which are competitively sold and have a five year maturity date. The bonds are issued under Article 10, Section 27 of the Constitution of the State of Oklahoma and require a majority vote of 50% for approval. He said if the ordinance is approved by Council, the proclamation and notice of election will be published in the newspaper three times in the three preceding weeks prior to the election.

Mayor Rosenthal reminded everyone the street construction portion of the bonds will be accomplished without an increase in property taxes. The First Reading Ordinance will appear on Council's agenda of December 8, 2009, with Second Reading following on December 22, 2009.

Items submitted for the record
1. Draft Ordinance No. O-0910-16

Participants in discussion
1. Mr. Allan Brooks, Public Finance Law Group, PLLC
2. Mr. Anthony Francisco, Director of Finance
3. Mr. Steve Lewis, City Manager

The meeting adjourned at 5:45 p.m.

ATTEST:

City Clerk

Mayor

27. ITEM: RESOLUTION NO. R-0910-79: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON MARCH 2, 2009.

INFORMATION: The above-described resolution has been drawn and is submitted for City Council's consideration. A copy of the Resolution is included in the Agenda Book and Ordinance No. O-0910-16 is included in the previous item.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-0910-79.

ACTION TAKEN: _____

# Resolution

R-0910-79

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON MARCH 2, 2009.

§ 1. WHEREAS, Title 26 of the Oklahoma Statutes, §13-102, requires Notice of Election be given to the Secretary of the Cleveland County Election Board by Resolution of the City Council; and

§ 2. WHEREAS, the purpose of the Special Election is set forth in Ordinance Nos. O-0910-16 which is incorporated herein by reference; and

§ 3. WHEREAS, the Special Election is to be conducted on the 2nd day of March, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 4. That notice be given of the Special Election by transmittal of this Resolution to the Secretary of the Cleveland County Election Board.

PASSED AND ADOPTED this 22nd day of December, 2009.

_____
Mayor

ATTEST:

_____
City Clerk